

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
OCTOBER 18, 2010
BUSINESS MEETING
6:30 P.M.

1. CALL TO ORDER

**2. ROLL CALL/INVOCATION /
PLEDGE OF ALLEGIANCE**

- 3. APPROVE MINUTES:** Council meeting minutes / September 20, 2010
Council meeting minutes / October 4, 2010
Council Work Session minutes / October 11, 2010

- PUBLIC HEARINGS:** 1.) **Annexation:** Richard S. Higbee
Located: Northwest of the intersection of County Road 13 &
Whispering Pines Road
Present Zoning: RSF-2, Single Family District, in Baldwin County
District 15
Requested Zoning: B-1, Local Business District, City of Daphne /
Ordinance 2010-60
- 2.) **Rezone:** A & B-10, LLC
Located: Northeast of the intersection of Whispering Pines Road and
Parker Lane, north of Madison Place Subdivision, Phase Two, north of
Caroline Woods, Phase One and Two and west of Daphne Business Park,
Phase Two
Present Zoning: R-3, High Density Single Family District, City of Daphne
Requested Zoning: R-4, High Density Single Family District, City of Daphne /
Ordinance 2010-61

MOTION: Elect New Council President & Council President Pro tem / For a one (1) year term to start
November 1, 2010

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Boulware

Review minutes / October 11th

1.) Ordinances:

- a.) Whispering Pines Road Alt #1 / **Ordinance 2010-62**
- b.) Fiscal 2011 Roadway Improvements Engineering / **Ordinance 2010-63**
- c.) Claiborne Circle Drainage / **Ordinance 2010-64**

2. Resolutions:

- a.) Bid Award: 2010-BB-Daphne Utilities Blower Retrofit / Ballcon, Inc. / **Resolution 2010-95**
- b.) Bid Award: 2010-B-Whispering Pines Alt #1 / M.C. Williams Contracting Co. /
Resolution 2010-96
- c.) Declare Surplus Vehicles & Equipment / **Resolution 2010-97**

3. Financial Reports:

- a.) Treasurers Report / September 30, 2010
- b.) Sales & Use Tax Collections / August 31, 2010
- c.) Lodging Tax Collections / August 31, 2010

B. BUILDINGS & PROPERTY - Lake

Review minutes / October 11th

C. PUBLIC SAFETY – Palumbo

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

Review minutes / October 13th

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Jones

B. Downtown Redevelopment Authority – Barnette

C. Industrial Development Board – Yelding

D. Library Board – Lake

E. Planning Commission – Barnette

Set Public Hearing Date for November 15, 2010 to consider:

1. Amending the Land Use Ordinance / Table of Permitted Uses / For the designation of a convenience store by right in a B-1, Local Business District, as a use allowed upon Planning Commission approval
2. Amending the Land Use Ordinance / Table of Permitted Uses / Add a bowling alley and Entertainment Center as a use allowed upon Planning Commission approval in a B-1, Local Business District

F. Recreation Board - Reese

G. Utility Board - Scott

6. REPORTS OF OFFICERS:

A. Mayor’s Report

- a.) Parade Permit / 10th Annual Animal Rescue Run / December 18, 2010 / 5K & 1Mile Pet Trot
- b.) **MOTION:** Authorize the Mayor to enter into a Franchise Agreement with Media Com

B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

a.) Bid Award: Energy Efficient Blower Retrofit at Daphne Utilities

Water Reclamation Facility / Ballcon, Inc/Resolution 2010-95

b.) Bid Award: Whispering Pines Road – Alternate #1 /

M.C. Williams Contracting Co. /Resolution 2010-96

c.) Declaring Certain Property Surplus / Vehicles & Equipment. /Resolution 2010-97

ORDINANCES:

1ST READ

- a.) **Annexation: Richard S. Higbee Property...../Ordinance 2010-60**
- b.) **Rezone: A & B-10, LLC Property...../Ordinance 2010-61**
- c.) **Appropriation of Funds: Capital Reserve Fund: Whispering Pines Road:
US Hwy 98 to Pollard Road / Alt #1/Ordinance 2010-62**
- d.) **Appropriation of Funds: Capital Reserve Fund: Fiscal 2011 Road
Improvements Engineering...../Ordinance 2010-63**
- e.) **Appropriation of Funds / General Fund: Sehoj Subdivision /
Claiborne Circle Drainage Project...../Ordinance 2010-64**
- f.) **Restrict Use of Wireless Communication Devices While Driving/Ordinance 2010-65**

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ __

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ __

COUNCILMAN BURNAM

PRESENT__ ABSENT__ __

COUNCILMAN SCOTT

PRESENT__ ABSENT__ __

COUNCILMAN BOULWARE

PRESENT__ ABSENT__ __

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ __

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ __

CITY CLERK:

DAVID L. COHEN

PRESENT__ ABSENT__

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**SEPTEMBER 20, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Palumbo called the meeting to order at 6:30 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Mr. Willie Robison.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; James White, Fire Chief; David Carpenter, Police Chief; Tonja Young, Library Director; Richard Johnson, Public Works Director; Vickie Hinman, Human Resource Director; Adrienne Jones, Planning Director; Margaret Thigpin, Civic Center Director; Kim Briley, Finance Director Richard Merchant, Building Official; David McKelroy, Recreation Director; Willie Robison, BZA; Joe Lemoine, Planning Commission; Ed Kirby, Planning Commission; Dorothy Morrison, Beautification Committee; Tomasina Werner, Beautification Committee.

3. APPROVE MINUTES

MOTION BY Councilwoman Barnette to adopt the minutes meeting held September 7, 2010. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Council Work Session meeting minutes meeting held September 13, 2010. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PROCLAMATION: Literacy Awareness Week

Councilman John Lake read and presented the proclamation to Brooke Chu with the Literacy Foundation.

RECOGNIZING: Baldwin County Alumni Chapter of Delta Sigma Theta Sorority, Inc.

Councilman Yelding introduced the sorority. This group would like to be a part of the city making a difference in young people's lives.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware
The minutes for the September 13th meeting are in the packet.

Treasurers Report / August 31, 2010

MOTION BY Councilman Scott to accept the Treasurers Report as of August 31, 2010 in the amount of \$19,161,531.31. Seconded by Councilwoman Barnette.

AYE	ALL IN FAVOR	NAY	NONE	OPPOSED	MOTION CARRIED
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Sales & Use Tax Collections / July 31, 2010

Sales & Use Tax Collected for July 2010	\$ 839,192
Sales & Use Tax Budgeted for July 2010	<u>\$ 831,192</u>
	\$ 8,034

YTD Budget Collections Variance – Over Budget / \$ 224,943

Lodging Tax Collections / July 31, 2010

\$91,906.47 was collected for July. This year’s collections for July are \$ 31,286 over FY 2009’s collection for July.

Motions

- a.) To recommend to Council to approve a salary of \$30,000 plus \$100/hour for appeal work, not to exceed \$40,000 annually, for annual City Prosecutor services.
- b.) To recommend full council review the \$2,000 damage claim by Mr. Greg and Mrs. Cathy MacMullin, and the City’s insurance company’s response.

Council President Palumbo stated that these two motions will be considered after Resolutions.

Councilwoman Barnette requested that a report be made monthly or quarterly on how the lodging tax money is spent. She said this would be a visual to help council know where the tax money goes.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake
The minutes for the September 7th meeting are in the packet. No report.

C. PUBLIC SAFETY COMMITTEE –

The minutes for the August 11th meeting are in the packet. No report.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

The committee at the last meeting had a brief presentation regarding an ordinance prohibiting texting while driving in Daphne. The committee will consider an ordinance at the next meeting.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

MOTION BY Councilman Yelding to authorize the City Engineer, HMR Engineers, Inc., to execute the full project design and prepare the project for bid under the below detailed general scope, and all conditions required by the Alabama Department of Transportation (ALDOT), for the following City of Daphne Street Improvement Projects, and at a future council meeting a professional service contract for each project set at an agreed upon fixed cost will be presented. (See Exhibit “A”):

- a.) *FY2011 Alternative – Phase I – Bay View Drive (From Hwy 90 for a total of 1.42 miles)*
- b.) *FY2011 Alternative – Phase II – Ridgewood Drive (Lawson ½ mile north & ½ mile south for a total of 1.0 miles)*
- c.) **Project – 2b – Intersection of Whispering Pines Road and US Hwy 98 (Additional turn lanes and signalization upgrade)**
- d.) **Project 6 – TimberCreek Boulevard - State Hwy 181 to US Highway 31 (Base Repair, Mill and Overlay Boulevard) (If County chooses not to participate in the resurfacing)**

***FY2011 Project 2a – Whispering Pines Road: US Hwy 98 to Pollard Road (Mill, level and overlay two (2) lanes). (The project has been bid by MC Williams and the bid is good until March 2011, and the engineering design has been done and paid for)**

EXHIBIT “A”

SURVEYING AND ENGINEERING – GENERAL SERVICES

The Engineer shall perform certain professional engineering services relating to infrastructure improvements and other assignments as authorized by the City, as follows:

- A. Design
 - 1. Attend meetings regarding proposed projects.
 - 2. Prepare preliminary layouts and sketches if needed.

3. Prepare preliminary construction cost estimates.
4. Field surveys for design and layout.
5. Design the work.
6. Prepare detailed contract drawings and specifications for construction.
7. Prepare construction estimates of quantities and cost.
8. Assembling and mailing Contract Documents on behalf of the City.
9. Assist the City in receiving bids.
10. Tabulate bids and make recommendations concerning award.
11. Assist the City in the award of the Contract.

Construction Engineering and Inspection (CE&I) Professional Services

1. Attend meetings with the City officials as required and assist in administering the construction contracts.
2. Recover and/or furnish reference line and benchmarks for control of the work.
3. Review shop drawings and manufacturer's drawings pertaining to the improvements for compliance with the design concept.
4. Review laboratory, mill and shop tests of materials to be incorporated into the work.
5. Provide field reviews of the work and interpret the plans and specifications by periodic visits to the site by one or more design engineers.
6. Provide the services of a resident project representative, and assistants if the work under progress shall have continuous close review. ENGINEER will endeavor to protect the City against defects and deficiencies in the work of contractors, but does not guarantee the work or performance of the contractors. Duties, Responsibilities, and Limitations of Authority Resident Project Representative to be attached to the Professional Services Agreement.

7. The ENGINEER is not responsible under the Professional Services Agreement. to act as foreman, superintendent, safety engineer or for the safety of the contractor's personnel.
8. Review and approve contractor's estimates for work performed for payment by the City.
9. Make review of the construction upon completion and revise the construction drawings to show the project "record drawing", and certify that in accord with knowledge required to meet professional engineering standards of practice, the project was built in accordance with the Construction Contract Plans and Specifications.
10. Field measure pay quantity items of work for preparation of final construction estimate by contractor and payment by the City.
11. The City will provide laboratory services for all soils studies and reports and for all inspectors and tests requiring the services of a laboratory throughout the construction project.
12. The ENGINEER will furnish the City with up to a reasonable number of sets of all reports and specifications. Additional sets will be furnished at cost.

Seconded by Councilman Boulware

AMENDED

Councilwoman Barnette commented that council discussed this in detail at the work session, but to her it is the chicken or the egg they are proposing close to \$3.8 million of potential funds for this project, but they have not decided where the money is going to come from, how much they are willing to take out of capital reserves, and what the other capital priorities are for the City of Daphne. She knows they are trying to show forward momentum, and she understands that, but she also does not know if they can accomplish everything that is on the list. That is fine if they choose to pre-prioritize later when they get the figures in, but she thinks there is an intent implied by moving forward with this motion. She does not want there to be a perception that the \$3.8 million is going to get accomplished, because they do have a budget book and other capital needs in the city as well. Obviously, the roads have been a high priority, and it may be the number one priority, but they have not had that discussion. They have just received the budget books in the past couple of days, and they have not been able to vet out any of the other needs. If they are going to go forward with the complete streets project, which she supports, they need to understand that there is a commitment within the rest of the city as they move forward to go for complete streets. In the capital road project, and the other items they have Daphmont, for example, at 4.4 miles not as a complete street, and she does not think that would be the proper

way to do it. If they are going to re-do Lake Forest, and they add curb and gutter in the areas of other parts of the community that need curb and gutter they need to be prepared and be willing to do the entire city that way. She wants to be very clear that if they are setting the precedence, which they already have they passed a resolution to fully support it, but the costs obviously go up, and they need to be committed and be on the record that what they do for one community they will do for the rest of the community.

Council President Palumbo stated that this could be accomplished a few ways simply by policy or it could be legislated.

Councilman Yelding stated that he also talked about the cost of the projects. Realistically they are not going to be able to do a complete project. If they do a complete project in Lake Forest, which is Phase I they are talking about \$3.8 million, and he asked in the Public Works meeting, where are they going to get the \$3.8 million? If they get \$3.8 million for the first project, and they are only allocating \$500,000 per year, they are starting in the year 2011 and then 2012 are they going to turn around and take another \$2 million from capital reserves? They will never finish the streets in 2014. They cannot do it like that and do it completely. If they do it completely they will exhaust all the funds from capital. They just cannot do it.

Councilman Scott stated that the \$3.8 million they are talking about includes projects Bay View Drive, Ridgewood Drive, Whispering Pines, Whispering Pines and US Hwy. 98, and TimberCreek Boulevard. That is the \$3.8 million. The recommendation was to divide up the Lake Forest road project to start at Highway 90 and go approximately 1.42 miles, and then go in at the Lawson Road entrance and go roughly a half mile in each direction to start the project. They are talking about \$3.8 million, and what they are doing tonight is to authorize the bids to go out. They are not allocation any dollars, and they do not know what those bids are going to look like. Once the bids come back then they will determine which of those projects they will do, where their priorities are, and totally where the dollars coming from. A rough estimate of where the \$3.8 million is coming from was discussed at the work session, and there was a comfort level, but he thinks Mr. Johnson added it up, and some of which were coming from reserves, some were coming from the million dollars that they had allocated for the access road that they withdrew support from and some was coming from the \$500,000 they have allocated for next year along with some \$300,000 that they already had in reserves for roads.

Councilman Yelding said that he understands that part, but his other question was after they use that \$3.8 million in 2011 where do they go from there, and the next question he asked at the Public Works meeting was are they going to engineer all the projects at once or are they going to engineer the projects one at a time?

Councilman Boulware said according to this motion they are engineering just the projects in the motion.

Councilman Yelding stated all three of the projects.

Councilman Boulware stated yes, but they have not bitten off that other big piece yet or even discussed how to address that. Tonight it is very concentrated into these two (2) phases of Lake Forest. Really one phase split into with TimberCreek and Whispering Pines included as well. Future work sessions would be the appropriate place to really dive into that. He said that he would have to agree with Councilwoman Barnette that this is a complete streets plan that council set in motion, even before he was on the council, so what they are doing is just realizing a plan that the council had visualized years ago. This is just the first step in many.

Councilman Scott stated that he has gotten calls from several engineering firms one of which is located in Daphne saying that they do not have a fair playing field that they have been shut out. Council has used other engineering firms on projects that they have brought to the city. He sees the City Engineer in the role that council designated them as the City Engineer, and they should be working with the Planning Commission, should be reviewing plans, and he thinks if they have certain expertise, and their prices are good then they have an opportunity to use them. He will tell other engineering firms if they bring the city projects and show council expertise then he thinks there has been a willingness on the part of the Public Works Director, the Mayor and the council to approve people outside of HMR that is designated as the City Engineer. In a perfect world they would probably put out RFP's and choose the one that has the best price and best expertise. HMR has been working on the Lake Forest projects for a number of years along with the Whispering Pines project which they gave to them when it was awarded last year. They have come under criticism on the Whispering Pines project for the waviness in the road, and they have gotten lots of comments, and he wants to go on notice saying that they need to do a better job of overseeing so that they do not have the waviness or else are they going to be able to get it out without destroying the road.

Councilwoman Barnette reiterated the other things they are not addressing in this package, and again she feels they are rushing to get these bids, but as Mr. Johnson brought up the need of addressing the traffic concerns at County Road 13 and Lawson Road. They just sort of ignored that problem, or not looking at it for the needs, but they are putting all the other items on the agenda to decide what they want to do with them, and he, basically, told council that that is a traffic issue that is going to need to take a high priority that is not currently on the list. There are going to be other priorities as well, the round-about and turn lane. So just to reiterate they have close to \$2 million that they are proposing to take out of capital for, potentially, just this \$3.85 million in front of them, and they have already gotten additional items that are high priorities that are not part of the capital improvement list. She just has a concern for why they are rushing to bid, particularly, since yes they talked about it Monday night, they are putting it out for bid, they are saying that they don't have to accept the projects, they will decide what they want to do, but they have historically had problems with the bid process, and she is wondering if it is because they have rushed it. They need to make sure that process works well, because they have had trouble in the past with it.

Councilman Lake would like to see what the bids come back as, because they have received tentative prices on them, and they are not going to be letting the bids. If they are going to work with a number addressing the issue of streets, they have worked for two (2) years on Whispering

Pines, and if it is going to take two (2) years to get a street paved in Daphne they are not going to get anything done. He thinks they need to get moving, and if it becomes cost prohibitive to do curbs and gutters they will have to not do them, but they have to start paving some of the roads and getting them done. What has got them in this position is that council went so many years without doing any paving of roads. The last time any paving was done was with the Public Works Director before Mr. Eady where they did a few jobs on Main Street, the Windsor entrance to Lake Forest, micro-paving was done and after that nothing was done, and they have gotten here because they have not been doing any paving. They need to do a little at a time. He does not see a problem with going out for bids, because, frankly, he is getting tired of waiting two (2) and three (3) years to see a project paved.

Council Boulware could not agree with Councilman Lake anymore. He said that is exactly right it has been a little over two (2) years that they agreed that they were going to address Lake Forest, and 20 years since they have addressed Lake Forest at all. He thinks the reason for what is perceived by some of the council as a rush to it is really an opportunity to seize the moment. They are in a situation that has been presented to them by the Public Works Director that materials for this road project if not at an all-time low, they are certainly as low as they have seen them, and if they don't seize this moment they could, in fact, lose. He also said that this is by no means a rush to make a decision. Two years is a long time to discuss something, and debate it. They have certainly vetted this one out thoroughly. No doubt Lake Forest is a vital part of this city, and so it deserves not just a lick and promise, but to have the kind of road and infrastructure that the city will be proud of, and that is what they are aiming to do. That is his answer as to why does this appear as if they are rushing. Opportunities do not come along like this every day, and he thinks that the Public Works Director will agree. He thinks it is in the city's best interest to act now, and to do it the right way.

Council President Palumbo pointed out that it has already been said, but letting out these bids does not expend any money, and these projects will have to be appropriated when the bids come back. He agrees with what Mr. Boulware just said. He does not think this is a rush. Prior to the Whispering Pines project they will have to go back a long ways to remember the last time they repaved or resurfaced a street. The one that comes to his mind is Main Street near Windsor in Lake Forest, and other than that it has been catch up – catch up, repairs of roads that have been washed out, some in District 1 that simply had to be done, deterioration that has been going on in some places that actually has become a safety hazard, so he does not think this is a rush at all. In fact, the council when hiring Mr. Johnson the council seemed to emphasized that they are interested in having an engineer on the job who could help them determine, not to act as the City Engineer, but to help them place priorities and determine which projects needed to be done in which particular order within the means that they may have to do it. There was no rush there, and he thinks that was a very calculated decision that the council made, and he thinks the first thing they did to the Public Works Director was to commission him to look at the priority list, not only what Mr. Eady had prepared, but to give them his own opinion which they discussed in infinitum at the work session, and at the council meeting prior to this one. So he does not think the word rush is really appropriate here, and that is his opinion. The final thing is at what point do they start. He

thinks just the Ridgewood and Bay View sections allow at roughly 6 ½ miles, and they are looking at \$6 ½ million are they going to wait until they have \$6 ½ million before they make the first repair in Lake Forest. He does not think that is prudent. To get some momentum with the roads program is very important, and although they will discuss the specifics with financing, and it has been mentioned what are reserves for. From time to time reserves are to take care of capital projects in the city that have been neglected for a long time, and frankly they have. He thinks the time has come to let out these bids. They have a very favorable climate for doing construction work right now. Every engineer, every contractor that he comes across tells him that at the current time that projects are coming in at 10%, 15% to 20% below estimate. Construction materials are down. When are they going to have a better time to do these projects. The catalyst for this was the freeing up of the \$1 million from the north I-10 Service Road that was scrapped. They have that \$1 million which remains in the general fund or reserves, and that was carried as a budget item for the past three (3) years. That is now freed up, and they asked Finance a couple of months ago how much was on hand for roads, and he thinks it was \$800,000, or that included the \$500,000 they put in the ordinance to include \$500,000 each year which was \$1.8 million, and a figure was suggested of \$2 million in reserves, and perhaps when these bids come back to complete these projects it won't take \$3.8 million. He thinks they need to move, and he is in favor of this, and he does not think they should delay, because it would not be prudent.

Councilman Reese said that until they have the bids in hand they will be doing what they have been doing for a while, and that is speculating and guessing, and this is just a necessary first step, but a modest one. There really is no reason not to go forward with this.

Councilman Yelding called for the question.

AYE Yelding, Lake, Reese, Scott, Boulware, Palumbo

NAY Barnette

MOTION CARRIED

2. **MOTION:** To request Baldwin County participate in the resurfacing of Project “d” as listed below by means of performing the work with the City of Daphne purchasing the materials:

FY2011 Project 6 - TimberCreek Boulevard – State Highway 181 to US Highway 31
(Base repair, mill and overlay Boulevard)

MOTION BY Councilman Yelding to request Baldwin County to participate in the resurfacing of Project “d” as listed below by means of performing the work with the City of Daphne purchasing the materials: FY2011 – Project 6 – TimberCreek Boulevard – State Highway 181 to US Highway 31 (Base repair, mill and overlay Boulevard.) Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones

No report.

B. Downtown Redevelopment Authority – Barnette

The next meeting will be Monday September 27th at 5:15 in the Executive Conference room.

C. Industrial Development Board – Yelding

No report.

D. Library Board – Lake

The Teen Advisory Board Festival held last Saturday was a success. The Friends of the Library Book Sale is next Saturday from 9:00 a.m. – 2:00 p.m. The local History Forum will be hosted by the Daphne Museum and will be held at the museum. The Library Board will meet October 7th at 4:00 p.m. Bring your own pumpkin to paint October 7th at 5:00 p.m.

E. Planning Commission – Barnette

The Planning Commission meeting will be September 23rd at 6:00 p.m. in the council chambers. They will review the comments from the work session, and send forth a recommendation.

F. Recreation Board – Reese

No report.

G. Utility Board – Scott

The next meeting will be September 29th at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. Mayor’s Report

a.) Parade Permit / Daphne High School Homecoming Parade / September 30, 2010

MOTION BY Councilman Scott to approve the Parade Permit for the Daphne High School Homecoming Parade / September 30, 2010. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney Report

No report.

C. Department Head Comments

James White – Fire Chief – reported that Daphne held first Tournament of Hoses softball tournament September 18th, and thanked the Mayor, Councilwoman Barnette, Councilman Boulware for attending, and Public Works and Recreation Department for their help.

David McKelroy – Recreation Director - reported that the Daphne Fire Department came in second at the softball tournament. He reminded everyone that Brown Bag by the Bay is on Thursdays from 11:30 a.m. – 1:30 p.m. He reported on youth football, men’s and women’s softball.

Tonja Young – Library Director – reported that the Library has received four (4) grants in FY2010: IMLS \$100,000 /technology; LSTA \$25,000 / materials, supplies, equipment, speakers; two smaller grants of Library materials: DUC (Art) & We the People (History). New grant for FY2011: LSTA \$60,000.

Margaret Thigpen – Civic Center Director – reported that the Taste of the Eastern Shore figures was \$27,450, expenses were \$5,321.57. The total after expenses is \$22,128.43. They sold 1,096 tickets. They were down by ten (10) vendors.

7. PUBLIC PARTICIPATION

Mr. Rod Drummond – Ridgewood Drive – spoke regarding the paving of roads.

Mr. Kevin Spriggs – Owner of Eastern Shore Motel – spoke endorsing the Lake Forest road projects, and endorsing Mr. Jim Scroggins as City Prosecutor and leaving the salary as it is.

Mrs. Pauline Ouellette – 7720 Elizabeth Drive – spoke regarding making the intersection of Whispering Pines and US Highway 98 pedestrian friendly.

Mr. David Chalk – TimberCreek Property Owners Association President – spoke regarding the condition of TimberCreek Boulevard.

Mr. Henry Lawson – 104 Boosketuh – spoke regarding roads in Lake Forest

Mr. Boyd Nelson – 214 Randall Avenue – spoke regarding road paving projects stating that the city’s first priority should be Main Street out front of City Hall and Randall Avenue.

Mr. Willie Robison – Stuart Street – spoke regarding the motion to go out for bids on the road projects, and is in favor of curb and gutter.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) Safe Routes to School Grant/Resolution 2010-82
- b.) Historical Records Advisory Board Grant/Resolution 2010-83
- c.) Sustaining Cultural Heritage Collection/Resolution 2010-84
- d.) Bid Award: Jubilee Breeze / Interstate Printing & Graphics/Resolution 2010-85
- e.) Bid Award: Jail Food Service / Winn Dixie/Resolution 2010-86
- f.) Bid Award: Police Uniforms / Terry’s Uniforms & Screen Printing, Inc. /Resolution 2010-87
- g.) Bid Award: PD/Digital in-Car Video Systems / Gulf Coast Teleco/Resolution 2010-88
- h.) Bid Award: Office Supplies / Gulf Coast Office Products/Resolution 2010-89
- i.) Bid Award: Traffic Control Signs / John M. Warren, Inc/Resolution 2010-90
- j.) Bid Award: Safety Shoes / Gulf Supply Company, Inc/Resolution 2010-91
- k.) Bid Award: Plastic Pipe / Ferguson Waterworks/Resolution 2010-92
- l.) Declare Surplus Vehicles & Equipment/Resolution 2010-93
- m.) Bid Award: Used Rescue Hazardous Material Response Vehicle/Resolution 2010-94

MOTION BY Councilman Scott to waive the reading of Resolution 2010-90. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-90. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Resolutions 2010-82, 2010-83 and 2010-84. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-82. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-83. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-84. *Seconded by Councilman Lake.*

Council discussed the Resolution, and asked the City Clerk to meet with the Museum Board to decide what they need for the museum since the grant application is not due until November. Council President Palumbo said that he will put this on the October work session.

Councilwoman Barnette withdrew her motion, and Councilman Lake withdrew his second.

RESOLUTION 2010-84 WAS TABLED UNTIL A FUTURE COUNCIL MEETING, AND SENT TO THE OCTOBER WORK SESSION

MOTION BY Councilwoman Barnette to waive the reading of Resolutions 2010-85, 2010-86, 2010-87, 2010-88, 2010-89, 2010-91 and 2010-92. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-85. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolutions 2010-86, 2010-87, 2010-88, 2010-89. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolutions 2010-91 and 2010-92. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to waive the reading of Resolutions 2010-93 and 2010-94. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2010-93. *Seconded by Councilwoman Barnette.*

AYE Yelding, Barnette, Reese, Scott, Boulware, Palumbo NAY Lake

MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2010-94. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

1st READ

a.) Extending the Fiscal 2010 Budget Authority...../Ordinance 2010-59

MOTION BY Councilman Scott to suspend the rules to consider Ordinance 2010-59. Seconded by Councilwoman Barnette.

ROLL CALL VOTE

Yelding	Aye	Scott	Aye
Barnette	Aye	Boulware	Aye
Lake	Aye	Palumbo	Aye
Reese	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to waive the reading of Ordinances 2010-59. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2010-59. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adjourn into Executive Session to discuss the good name and character of an individual, and to discuss threatened litigation. The session will last for 30 minutes. Seconded by Councilman Lake.

Mr. Ross certified that the above stated reasons were appropriate reasons to enter into Executive Session, however the salary for the prosecutor would have to be done in public.

ROLL CALL VOTE

Yelding	Aye	Scott	Nay
Barnette	Aye	Boulware	Aye
Lake	Aye	Palumbo	Aye
Reese	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

SEPTEMBER 20, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

Council entered into Executive Session at 8:12 p.m.

Council returned from Executive Session at 8:55 p.m.

MOTION BY Councilman Scott to approve a salary of \$30,000 plus \$100/hour for appeal work not to exceed \$40,000 annually for City Prosecutor services. *Seconded by Councilman Lake.*

MOTION BY Councilman Boulware to amend the previous motion to set the salary for the City Prosecutor at \$30,000 period without the \$100 per hour for appeal work.

MOTION FAILS FOR LACK OF A SECOND

MOTION BY Councilwoman Barnette to amend the original motion for Council to approve a salary of \$38,000 for annual Prosecutor services. *Seconded by Councilman Lake.*

AYE Barnette NAY Yelding, Lake, Reese, Scott, Boulware, Palumbo

MOTION FAILS

MOTION BY Councilman Scott to amend the original motion to include an effective date to coincide with the cancellation date of the previous contract which will be October 9, 2010. *Seconded by Councilman Reese.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

VOTE ON ORIGINAL MOTION AS AMENDED

AYE Yelding, Lake, Reese, Scott, Palumbo NAY Barnette, Boulware

MOTION CARRIED

8. COUNCIL COMMENTS

Councilwoman Barnette reminded everyone that the Jubilee Festival is this weekend.

Councilman Lake reported that he read that the recession was over in June.

Councilman Scott mentioned that Mr. Henderson could print something in the paper regarding the Jubilee Festival.

**SEPTEMBER 20, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

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Council President Palumbo said that two (2) weeks ago Moody's Financial Services officially declared Mobile in double dip recession. He did not know how they came up with that, but it does not give a real boost of confidence. He reported that last month for the very first time since he has been on the Buildings and Property Committee there was not a single residential house permit issued in the City of Daphne. He is happy that council has gotten the ball rolling on some road projects, and he hopes they can see them to fruition. He reminded everyone that they have their budget books to review.

10. ADJOURN

MOTION BY Councilman Yelding to adjourn. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 9:14 p.m.

Respectfully submitted by,

David L. Cohen,
City Clerk

Certification by Presiding Officer:

August A. Palumbo,
Council President

**OCTOBER 4, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Palumbo called the meeting to order at 6:30 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Councilman Lake.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; James White, Fire Chief; David Carpenter, Police Chief; Richard Johnson, Public Works Director; Vickie Hinman, Human Resource Director; Adrienne Jones, Planning Director; Margaret Thigpin, Civic Center Director; Kim Briley, Finance Director; David McKelroy, Recreation Director; Anne Morris, Reference Librarian; Scott Hutchinson, City Engineer; Jerry Graham, Firefighter; Michael Ramer, Firemedic; Adam Byrd, Firemedic; Steve Martell, Firefighter; Tom Walker, Firefighter; Joey Holasz, Battalion Chief; Nathan Adams, Firemedic; Jason Brooks, Firemedic; Willie Robison, BZA; Ed Kirby, Planning Commission; Tomasina Werner, Beautification Committee; Mickey Boykin, Daphne Museum; Pfil Hunt, Gardnyr Michael Capital.

Absent: Tonja Young, Library Director; Richard Merchant, Building Official.

3. APPROVE MINUTES

MOTION BY Councilwoman Barnette to table the September 20, 2010 meeting minutes so they can be amended to include comments regarding the road projects, and to be presented for approval at the next meeting. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PROCLAMATION: Breast Cancer Awareness Month

Jason Brooks, Firemedic and President of the Daphne Professional Firefighters Association, said that they were approached by the Orange Beach Fire Department and the Orange Beach Professional Firefighters Association in July asking them to help establish a Chapter of Pink Heals, which an organization which brings Breast Cancer Awareness to the fore. They have purchased a pink fire truck and pink turnout gear and travel around and have breast cancer survivors and families sign their names. It is a very emotional and gripping thing to see. They just had a Pink Heals rally at Orange Beach this past Saturday at the Wharf, and it was very moving. So they were asked to help raise money by selling the pink t-shirts, and they raised \$1,275 toward the establishment of a Pink Heals Chapter in Orange Beach.

Mayor Small read and presented the proclamation to the firefighters.

**OCTOBER 4, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

PRESENTATION: Phil Hunt / Gardnyr Michael Capital

Mr. Hunt presented some refinancing opportunities available to the city at this time. He has been following the market not only for Daphne, but a lot of clients to watch what is happening with interest rates. Interest rates in the country have continued to fall, and it has created two (2) new opportunities for the city. He pointed out the savings that can be gotten by refinancing the 2002 and the 2003 bond issues. It is about \$389,000 over the life, and present value is 4.17%. The significance of that is that most cities and counties in the GFOA use a 3% PV savings threshold before they will actually consider refinancing, and Daphne is well above that 3% threshold. They broke out just the 2002 and 2003 separately so that council could see which one generates which savings. The 2002 actually generates the largest share of it. It is about \$300,000 of the \$389,000 which is almost 6% PV savings so it is almost double that 3% threshold. The 2003 savings is about \$6,000 a little over 2.1% PV savings. They also, after talking with some council members and the mention of the possibility of new money for street paving or other projects, they looked at a couple of ideas for up to \$3 ½ million of new money, and how you could roll that in with the refinancing. Debt service is like putty you can mold it and shape it any way that you want, and that is what they have done. He presented where the city is with all the outstanding general obligation debt. The highest years in the next several years is just a hair over \$3 million, fairly level in those years. That is the maximum annual debt service, and what they did was said ok if the city is going to borrow \$3 ½ million, potentially, in new money, and meld it in with these refinancing's one scenario is assuming a 10 year debt for the new money, the \$3 ½ million, and wrapped it around the refunding and the outstanding debt of the city, and the bottom line it would be an increase to the city's debt service of \$275,000 in those years. Another scenario was that they extended the new money from 10 years to 11 years, and the pain threshold drops down to \$115,000 of incremental dollars to fund the \$3 ½ million. The next scenario they left 11 years on the new money, and shifted some of the refinancing back just a little bit to make some room, and the net there is the \$3 ½ million will only cost \$32,000 more in aggregate in any of these years. The last scenario they moved the debt service back a little bit further on the refunding, and they extended the new money to 12 years instead of 10 years, and the incremental increase is only about \$12,000. (*Charts are spread out upon these minutes.*)

MOTION BY Councilman Scott to authorize Mrs. Briley and Mr. Hunt to proceed with the compiling the refinancing figures for the 2002 and 2003 Bond Issues. *Seconded by Councilman Lake.*

Councilman Scott stated that this would come before the Finance Committee for review.

MOTION BY Councilman Yelding to amend the motion to include getting figures for the \$3.5 million new money. *Seconded by Councilman Scott.*

VOTE ON AMENDMENT

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

VOTE ON ORIGINAL MOTION AS AMENDED

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware

No report. The next meeting will be Monday at 4:00 p.m.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The committee met before the council meeting and the minutes will be in the next packet.

C. PUBLIC SAFETY COMMITTEE –

No report. The next meeting will be next Wednesday at 4:30 p.m.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

No report. The next meeting will be next Wednesday after the Public Safety meeting.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

Councilman Yelding reported that council was given the Directors report by Mr. Johnson earlier. May Day Park boat ramp was officially opened Friday, but had to close again so that Public Works could remove some debris. The grand opening will be October 24th. The Captain O’Neal Drive project has been completed.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones

No report.

B. Downtown Redevelopment Authority – Barnette

There was not a quorum at the last meeting. The next meeting will be October 25th at 5:15 p.m.

C. Industrial Development Board – Yelding

No report.

D. Planning Commission – Barnette

MOTION BY Councilwoman Barnette to set a Public Hearing date for November 1, 2010 to consider Revisions to the Zoning map. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilwoman Barnette stated that the changes to the table of uses will be considered at the work session. She mentioned that the Planning Department will be closed Thursday and Friday for training.

OCTOBER 4, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

4

E. Library Board – Lake

The minutes for the July and August meeting are in the packet. Usage of the Library is up across the board.

F. Recreation Board – Reese

No report. The next meeting will be Wednesday, October 13th.

G. Utility Board – Scott

The September meeting was canceled due to lack of a quorum. The October meeting will be November 3rd at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

a.) Parade Permit / Arthritis Foundation / December 4, 2010 / 5K & 1 Mile Run

MOTION BY Councilman Yelding to approve the Parade Permit for the Arthritis Foundation / December 4, 2010. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

b.) ABC License / Publix / 050 – Retail Beer (Off Premises Only) / 070 Retail Wine (Off Premises Only)

MOTION BY Councilwoman Barnette to approve the ABC License / Publix / 050 – Retail Beer (Off Premises Only) / 070 - Retail Wine (Off Premises Only). *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARREID

c.) Voting Delegate for the National League of Cities Conference / Denver, Colorado / December 2010

MOTION BY Councilman Boulware to appoint Councilman Lake as the Voting Delegate for the National League of Cities Conference in Denver, Colorado / December 2010. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

OCTOBER 4, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

B. City Attorney Report

No report.

C. Department Head Comments

David McKelroy – Recreation Director - reported that now that May Day Park is open, Brown Bag by the Bay will return to May Day for the month of October. Trione Sports Complex - Saturday, October 9th, - Baldwin County Youth Football will play on the two football fields and Mobile Soccer Club will use the new soccer fields. Saturday and Sunday, October 16th & 17th USFA girls softball will host a 29 team tournament, with at least six (6) teams coming in from out of town. Also, on the 16th, Daphne High School will host the county Cross Country meet at Trione. Saturday and Sunday, October 23rd & 24th the Blast Soccer Club will host their Halloween Tournament. Wednesday, October 6th will be the pre-construction meeting for the lighting project at Trione with the bid opening on Wednesday, October 13th. The bids for restrooms/concession should soon follow.

David Carpenter – Police Chief – urged citizens to keep their cars locked, because there has been a rash of crime where they are stealing from cars especially in Lake Forest.

David Cohen – City Clerk – discussed the quotes received for the placard sign for May Day Park, and the sign naming the boat ramp for Victor Guarisco.

MOTION BY Councilman Scott to release the funds for the placard sign at May Day Park. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilwoman Barnette stated that it goes without saying that the Guarisco monument sign will go through Buildings & Property before coming to council.

7. PUBLIC PARTICIPATION

Mr. Kevin Spriggs – Owner of Eastern Shore Motel – spoke regarding borrowing money for paving. He advocated pay as you go.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES:

NO ORDINANCES

8. COUNCIL COMMENTS

Councilman Yelding reported on the round-about at Whispering Pines Road and Pollard Road saying that according to Mr. Johnson they have completed all the concrete stamps, and the remaining work to complete are the curbing, sidewalks, asphalt, signage, striping. Mr. Johnson feels that at the end of the week that project will be completed.

Councilwoman Barnette stated that she knows they have a lot to discuss at the work session, but she hopes that they will put the budget on the agenda as well. She commended the Fire Department for selling out all their shirts by October 4th. This shows their stewardship for the community. It is great that the city has such an involved group of folks. The weather is changing, and there is a kind of spirit in the area, and she hopes that they all can continue to use that spirit for the community.

Councilman Scott stated that he recommends that council pick Wednesdays to be the best day to consider the budget. He also wants council to consider changing the meeting times to 6:00 p.m. starting in November. He thinks it will be better for the citizens, and get them home earlier.

Councilman Boulware commented on the budget saying that they have been presented a deficit budget once again, and if council has not had an opportunity to look over the budget he advised them to start studying it. It is as bad as it was last year. The numbers are a little bit different, but you might as well say they have a budget which is operating in the red. This is the only proposal they have had from the Mayor. He has not seen a second one, but the one in front of them has the city at \$800,000 in the negative. He said as council thinks about going forward, and what they need to do, and the fundamentals of budgeting to start thinking about that, and how council wants the city to go forward, and do they want to continue pulling from reserves for operating expenses or do they want to make adjustments to keep the reserves in a place where they can utilize them for things like capital expenses. He believes that is what the reserves were designed for and meant for.

Council President Palumbo reminded council that about this time last year council decided to rotate the position of Council President, and his term officially began November 1st. He does not recall that they set it at a year, but council will discuss that briefly at the work session next Monday night, and if it is council's desire to rotate it he is ready to let someone else win the prize. He noted that they are past the half way mark in the football season and Daphne High School is undefeated in their first six (6) games, and he hopes that they win them all. He asked Mayor Small if the county has had the Band Jamboree.

Mayor Small stated that it will be October 12th at Spanish Fort High School. He also reported that competition starts this weekend, and they will be going to Prattville for competition.

OCTOBER 4, 2010
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

10. ADJOURN

MOTION BY Councilman Yelding to adjourn. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 7:32 p.m.

Respectfully submitted by,

David L. Cohen,
City Clerk

Certification by Presiding Officer:

August A. Palumbo,
Council President



City of Daphne, AL

Analysis of Refunding
Opportunities & New
Money Issues



City of Daphne, Alabama
 Multipurpose Refundings
 Refunds Series 2002 & 2003

Debt Service Comparison

Part 1 of 2

Date	Total P+I	Series 2003 Non-Refunded	Net New D/S	Old Net D/S	Savings
02/01/2011	109,705.92	19,918.13	129,624.05	180,101.88	50,477.83
02/01/2012	252,315.50	453,536.26	705,851.76	716,683.76	10,832.00
02/01/2013	236,141.75	450,571.26	686,713.01	711,216.26	24,503.25
02/01/2014	239,837.75	451,953.13	691,790.88	714,998.13	23,207.25
02/01/2015	690,154.75	-	690,154.75	710,975.00	20,820.25
02/01/2016	691,369.00	-	691,369.00	709,335.00	17,966.00
02/01/2017	685,693.00	-	685,693.00	707,700.00	22,007.00
02/01/2018	693,145.00	-	693,145.00	710,962.50	17,817.50
02/01/2019	683,737.75	-	683,737.75	707,765.00	24,027.25
02/01/2020	154,860.50	-	154,860.50	168,785.00	13,924.50
02/01/2021	157,050.50	-	157,050.50	169,555.00	12,504.50
02/01/2022	153,953.00	-	153,953.00	169,995.00	16,042.00
02/01/2023	155,729.50	-	155,729.50	170,145.00	14,415.50
02/01/2024	157,264.50	-	157,264.50	170,000.00	12,735.50
02/01/2025	153,550.00	-	153,550.00	169,500.00	15,950.00
02/01/2026	154,743.50	-	154,743.50	168,750.00	14,006.50
02/01/2027	155,663.50	-	155,663.50	167,750.00	12,086.50
02/01/2028	151,301.00	-	151,301.00	166,500.00	15,199.00
02/01/2029	156,826.00	-	156,826.00	170,000.00	13,174.00
02/01/2030	156,858.00	-	156,858.00	168,000.00	11,142.00
02/01/2031	156,566.00	-	156,566.00	170,750.00	14,184.00
02/01/2032	155,940.00	-	155,940.00	168,000.00	12,060.00
Total	\$6,302,406.42	\$1,375,978.78	\$7,678,385.20	\$8,067,467.53	\$389,082.33

PV Analysis Summary (Net to Net)

Gross PV Debt Service Savings	303,918.41
Net PV Cashflow Savings @ 3.087%(AIC)	303,918.41
Transfers from Prior Issue Debt Service Fund	(116,789.17)
Contingency or Rounding Amount	9,256.25
Net Present Value Benefit	\$196,385.49
Net PV Benefit / \$4,710,000 Refunded Principal	4.170%
Net PV Benefit / \$5,060,000 Refunding Principal	3.881%

Refunding Bond Information

Refunding Dated Date	12/01/2010
Refunding Delivery Date	12/01/2010

City of Daphne, Alabama
 General Obligation Warrants
 Refunds Series 2002

Debt Service Comparison

Part 1 of 2

Date	Total P+I	Net New D/S	Old Net D/S	Savings
02/01/2011	101,406.25	101,406.25	112,976.25	11,570.00
02/01/2012	152,717.50	152,717.50	168,732.50	16,015.00
02/01/2013	151,910.00	151,910.00	166,230.00	14,320.00
02/01/2014	155,966.50	155,966.50	168,630.00	12,663.50
02/01/2015	149,769.50	149,769.50	165,760.00	15,990.50
02/01/2016	153,375.50	153,375.50	167,820.00	14,444.50
02/01/2017	151,647.50	151,647.50	164,595.00	12,947.50
02/01/2018	154,667.50	154,667.50	166,295.00	11,627.50
02/01/2019	152,359.00	152,359.00	167,695.00	15,336.00
02/01/2020	154,860.50	154,860.50	168,785.00	13,924.50
02/01/2021	157,050.50	157,050.50	169,555.00	12,504.50
02/01/2022	153,953.00	153,953.00	169,995.00	16,042.00
02/01/2023	155,729.50	155,729.50	170,145.00	14,415.50
02/01/2024	157,264.50	157,264.50	170,000.00	12,735.50
02/01/2025	153,550.00	153,550.00	169,500.00	15,950.00
02/01/2026	154,743.50	154,743.50	168,750.00	14,006.50
02/01/2027	155,663.50	155,663.50	167,750.00	12,086.50
02/01/2028	151,301.00	151,301.00	166,500.00	15,199.00
02/01/2029	156,826.00	156,826.00	170,000.00	13,174.00
02/01/2030	156,858.00	156,858.00	168,000.00	11,142.00
02/01/2031	156,566.00	156,566.00	170,750.00	14,184.00
02/01/2032	155,940.00	155,940.00	168,000.00	12,060.00
Total	\$3,344,125.25	\$3,344,125.25	\$3,646,463.75	\$302,338.50

PV Analysis Summary (Net to Net)

Gross PV Debt Service Savings	213,348.98
Net PV Cashflow Savings @ 3.725%(AIC)	213,348.98
Transfers from Prior Issue Debt Service Fund	(85,317.50)
Contingency or Rounding Amount	4,939.57
Net Present Value Benefit	\$132,971.05
Net PV Benefit / \$2,235,000 Refunded Principal	5.949%
Net PV Benefit / \$2,395,000 Refunding Principal	5.552%

Refunding Bond Information

Refunding Dated Date	12/01/2010
Refunding Delivery Date	12/01/2010

City of Daphne, Alabama
 General Obligation Refunding Warrants
 Refunds Series 2003

Debt Service Comparison

Date	Total P+I	Existing D/S	Net New D/S	Old Net D/S	Savings
08/01/2011	83,198.67	459,836.26	543,034.93	554,251.26	11,216.33
08/01/2012	84,398.00	457,236.26	541,634.26	551,651.26	10,017.00
08/01/2013	84,065.50	458,906.26	542,971.76	553,321.26	10,349.50
08/01/2014	543,677.00	-	543,677.00	554,415.00	10,738.00
08/01/2015	542,093.50	-	542,093.50	551,015.00	8,921.50
08/01/2016	538,893.50	-	538,893.50	552,015.00	13,121.50
08/01/2017	544,197.50	-	544,197.50	554,195.00	9,997.50
08/01/2018	537,757.50	-	537,757.50	550,140.00	12,382.50
Total	\$2,958,281.17	\$1,375,978.78	\$4,334,259.95	\$4,421,003.78	\$86,743.83

PV Analysis Summary (Net to Net)

Gross PV Debt Service Savings	81,105.17
Net PV Cashflow Savings @ 2.028%(AIC)	81,105.17
Transfers from Prior Issue Debt Service Fund	(31,471.67)
Contingency or Rounding Amount	4,316.68
Net Present Value Benefit	\$53,950.18
Net PV Benefit / \$2,475,000 Refunded Principal	2.180%
Net PV Benefit / \$2,665,000 Refunding Principal	2.024%

Refunding Bond Information

Refunding Dated Date	12/01/2010
Refunding Delivery Date	12/01/2010

City of Daphne, Alabama

Existing Debt

Aggregate Net Debt Service

DATE	DAPHNE, AL Series 2002	DAPHNE, AL Series 2003	DAPHNE, AL Series 2006	DAPHNE, AL Series 2010	TOTAL
09/30/2010	-	-	1,461,200.00	-	1,461,200.00
09/30/2011	164,842.50	554,251.26	1,936,940.00	151,887.50	2,807,921.26
09/30/2012	167,481.25	551,651.26	1,936,140.00	239,787.50	2,895,060.01
09/30/2013	164,930.00	553,321.26	1,932,450.00	375,887.50	3,026,588.76
09/30/2014	167,195.00	554,415.00	1,936,387.50	374,187.50	3,032,185.00
09/30/2015	164,290.00	551,015.00	1,935,787.50	370,687.50	3,021,780.00
09/30/2016	166,207.50	552,015.00	1,933,387.50	368,787.50	3,020,397.50
09/30/2017	162,945.00	554,195.00	1,934,187.50	375,037.50	3,026,365.00
09/30/2018	164,495.00	550,140.00	1,732,987.50	-	2,447,622.50
09/30/2019	165,740.00	-	1,734,962.50	-	1,900,702.50
09/30/2020	166,670.00	-	1,414,812.50	-	1,581,482.50
09/30/2021	167,275.00	-	1,416,137.50	-	1,583,412.50
09/30/2022	167,570.00	-	1,414,575.00	-	1,582,145.00
09/30/2023	167,572.50	-	1,415,025.00	-	1,582,597.50
09/30/2024	167,250.00	-	1,413,275.00	-	1,580,525.00
09/30/2025	166,625.00	-	1,414,450.00	-	1,581,075.00
09/30/2026	165,750.00	-	1,413,375.00	-	1,579,125.00
09/30/2027	164,625.00	-	1,415,050.00	-	1,579,675.00
09/30/2028	163,250.00	-	1,414,250.00	-	1,577,500.00
09/30/2029	166,500.00	-	1,415,975.00	-	1,582,475.00
09/30/2030	164,375.00	-	-	-	164,375.00
09/30/2031	166,875.00	-	-	-	166,875.00
09/30/2032	164,000.00	-	-	-	164,000.00
Total	\$3,646,463.75	\$4,421,003.78	\$32,621,355.00	\$2,256,262.50	\$42,945,085.03

Par Amounts Of Selected Issues

DAPHNE, AL Series 2002	2,235,000.00
DAPHNE, AL Series 2003	3,770,000.00
DAPHNE, AL Series 2006	22,485,000.00
DAPHNE, AL Series 2010	2,035,000.00
TOTAL	30,525,000.00

City of Daphne, AL

Proposed Debt: Wraparound

- 1) 2002-2003 Uniform Savings; Same Dates
- 2) New Money to 2020

Aggregate Net Debt Service

DATE	Daphne, AL Series 2006	Daphne, AL Series 2010	Daphne, AL Refunds Series 2002	Daphne, AL Refunds Series 2003	Daphne, AL New Money	TOTAL
09/30/2011	1,478,470.00	151,887.50	130,589.33	548,929.26	315,582.00	2,625,458.09
09/30/2012	1,936,140.00	239,787.50	152,810.25	542,935.76	303,753.00	3,175,426.51
09/30/2013	1,932,450.00	375,887.50	151,934.75	544,273.26	301,568.00	3,306,113.51
09/30/2014	1,936,387.50	374,187.50	155,855.50	544,978.50	294,015.00	3,305,424.00
09/30/2015	1,935,787.50	370,687.50	149,538.25	543,296.00	305,977.50	3,305,286.75
09/30/2016	1,933,387.50	368,787.50	152,946.50	544,946.00	301,969.50	3,302,037.00
09/30/2017	1,934,187.50	375,037.50	151,052.00	544,950.00	302,265.50	3,307,492.50
09/30/2018	1,732,987.50	-	148,914.50	543,250.00	306,753.00	2,731,905.00
09/30/2019	1,734,962.50	-	151,502.25	-	845,378.00	2,731,842.75
09/30/2020	1,414,812.50	-	153,770.00	-	843,698.00	2,412,280.50
09/30/2021	1,416,137.50	-	155,739.50	-	-	1,571,877.00
09/30/2022	1,414,575.00	-	152,505.50	-	-	1,567,080.50
09/30/2023	1,415,025.00	-	154,086.00	-	-	1,569,111.00
09/30/2024	1,413,275.00	-	155,417.50	-	-	1,568,692.50
09/30/2025	1,414,450.00	-	151,582.25	-	-	1,566,032.25
09/30/2026	1,413,375.00	-	152,574.50	-	-	1,565,949.50
09/30/2027	1,415,050.00	-	148,380.50	-	-	1,563,430.50
09/30/2028	1,414,250.00	-	148,987.75	-	-	1,563,237.75
09/30/2029	1,415,975.00	-	154,201.25	-	-	1,570,176.25
09/30/2030	-	-	149,098.25	-	-	149,098.25
09/30/2031	-	-	153,663.75	-	-	153,663.75
09/30/2032	-	-	147,907.25	-	-	147,907.25
Total	\$30,701,685.00	\$2,256,262.50	\$3,323,057.33	\$4,357,558.78	\$4,120,959.50	\$44,759,523.11

Par Amounts Of Selected Issues

Daphne, AL Series 2006	21,500,000.00
Daphne, AL Series 2010	2,035,000.00
Daphne, AL Refunds Series 2002	2,370,000.00
Daphne, AL Refunds Series 2003	2,680,000.00
Daphne, AL New Money	3,550,000.00
TOTAL	32,135,000.00

Max Annual P&I Change: \$275,307

Aggregate | 9/28/2010 | 2:01 PM

City of Daphne, AL

Proposed Debt: Manual

- 1) 2002-2003 Uniform Savings; Same Dates
- 2) New Money to 2021

Aggregate Net Debt Service

DATE	Daphne, AL Series 2006	Daphne, AL Series 2010	Daphne, AL Refunds Series 2002	Daphne, AL Refunds Series 2003	Daphne, AL New Money	TOTAL
09/30/2011	1,478,470.00	151,887.50	130,589.33	548,929.26	105,078.00	2,414,954.09
09/30/2012	1,936,140.00	239,787.50	152,810.25	542,935.76	137,297.00	3,008,970.51
09/30/2013	1,932,450.00	375,887.50	151,934.75	544,273.26	136,917.00	3,141,462.51
09/30/2014	1,936,387.50	374,187.50	155,855.50	544,978.50	136,473.00	3,147,882.00
09/30/2015	1,935,787.50	370,687.50	149,538.25	543,296.00	135,933.00	3,135,242.25
09/30/2016	1,933,387.50	368,787.50	152,946.50	544,946.00	135,265.00	3,135,332.50
09/30/2017	1,934,187.50	375,037.50	151,052.00	544,950.00	134,481.00	3,139,708.00
09/30/2018	1,732,987.50	-	148,914.50	543,250.00	343,581.00	2,768,733.00
09/30/2019	1,734,962.50	-	151,502.25	-	917,331.00	2,803,795.75
09/30/2020	1,414,812.50	-	153,770.00	-	1,064,838.00	2,633,420.50
09/30/2021	1,416,137.50	-	155,739.50	-	1,225,938.00	2,797,815.00
09/30/2022	1,414,575.00	-	152,505.50	-	-	1,567,080.50
09/30/2023	1,415,025.00	-	154,086.00	-	-	1,569,111.00
09/30/2024	1,413,275.00	-	155,417.50	-	-	1,568,692.50
09/30/2025	1,414,450.00	-	151,582.25	-	-	1,566,032.25
09/30/2026	1,413,375.00	-	152,574.50	-	-	1,565,949.50
09/30/2027	1,415,050.00	-	148,380.50	-	-	1,563,430.50
09/30/2028	1,414,250.00	-	148,987.75	-	-	1,563,237.75
09/30/2029	1,415,975.00	-	154,201.25	-	-	1,570,176.25
09/30/2030	-	-	149,098.25	-	-	149,098.25
09/30/2031	-	-	153,663.75	-	-	153,663.75
09/30/2032	-	-	147,907.25	-	-	147,907.25
Total	\$30,701,685.00	\$2,256,262.50	\$3,323,057.33	\$4,357,558.78	\$4,473,132.00	\$45,111,695.61

Par Amounts Of Selected Issues

Daphne, AL Series 2006	21,500,000.00
Daphne, AL Series 2010	2,035,000.00
Daphne, AL Refunds Series 2002	2,370,000.00
Daphne, AL Refunds Series 2003	2,680,000.00
Daphne, AL New Money	3,550,000.00
TOTAL	32,135,000.00

Max Annual P&I Change: \$115,697

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City of Daphne, AL

Proposed Debt: Restructuring

- 1) 2002-2003 Refunding; 2002 DS Shifted Back
- 2) New Money to 2021

Aggregate Net Debt Service

DATE	Daphne, AL Series 2006	Daphne, AL Series 2010	Daphne, AL Refunds Series 2002	Daphne, AL Refunds Series 2003	Daphne, AL New Money	TOTAL
09/30/2011	1,478,470.00	151,887.50	54,713.67	548,929.26	94,950.00	2,328,950.43
09/30/2012	1,936,140.00	239,787.50	82,070.50	542,935.76	127,185.00	2,928,118.76
09/30/2013	1,932,450.00	375,887.50	82,070.50	544,273.26	126,900.00	3,061,581.26
09/30/2014	1,936,387.50	374,187.50	82,070.50	544,978.50	126,567.00	3,064,191.00
09/30/2015	1,935,787.50	370,687.50	82,070.50	543,296.00	126,162.00	3,058,003.50
09/30/2016	1,933,387.50	368,787.50	82,070.50	544,946.00	125,661.00	3,054,852.50
09/30/2017	1,934,187.50	375,037.50	82,070.50	544,950.00	125,073.00	3,061,318.50
09/30/2018	1,732,987.50	-	82,070.50	543,250.00	594,398.00	2,952,706.00
09/30/2019	1,734,962.50	-	215,241.25	-	931,898.00	2,882,101.75
09/30/2020	1,414,812.50	-	216,389.00	-	1,008,863.00	2,640,064.50
09/30/2021	1,416,137.50	-	217,176.50	-	1,071,408.00	2,704,722.00
09/30/2022	1,414,575.00	-	217,632.00	-	-	1,632,207.00
09/30/2023	1,415,025.00	-	217,781.50	-	-	1,632,806.50
09/30/2024	1,413,275.00	-	217,646.00	-	-	1,630,921.00
09/30/2025	1,414,450.00	-	217,225.75	-	-	1,631,675.75
09/30/2026	1,413,375.00	-	216,513.00	-	-	1,629,888.00
09/30/2027	1,415,050.00	-	215,483.00	-	-	1,630,533.00
09/30/2028	1,414,250.00	-	209,209.25	-	-	1,623,459.25
09/30/2029	1,415,975.00	-	217,489.50	-	-	1,633,464.50
09/30/2030	-	-	215,211.75	-	-	215,211.75
09/30/2031	-	-	217,449.25	-	-	217,449.25
09/30/2032	-	-	214,210.50	-	-	214,210.50
Total	\$30,701,685.00	\$2,256,262.50	\$3,653,865.42	\$4,357,558.78	\$4,459,065.00	\$45,428,436.70

Par Amounts Of Selected Issues

Daphne, AL Series 2006	21,500,000.00
Daphne, AL Series 2010	2,035,000.00
Daphne, AL Refunds Series 2002	2,370,000.00
Daphne, AL Refunds Series 2003	2,680,000.00
Daphne, AL New Money	3,550,000.00
TOTAL	32,135,000.00

Max Annual P&I Change: \$32,006

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City of Daphne, AL

Proposed Debt: Restructuring 2

- 1) 2002-2003 Refunding; 2002 DS Shifted Back
- 2) New Money to 2022

Aggregate Net Debt Service

DATE	Daphne, AL Series 2006	Daphne, AL Series 2010	Daphne, AL Refunds Series 2002	Daphne, AL Refunds Series 2003	Daphne, AL New Money	TOTAL
09/30/2011	1,478,470.00	151,887.50	54,713.67	548,929.26	72,822.00	2,306,822.43
09/30/2012	1,936,140.00	239,787.50	82,070.50	542,935.76	106,693.00	2,907,626.76
09/30/2013	1,932,450.00	375,887.50	82,070.50	544,273.26	106,645.50	3,041,326.76
09/30/2014	1,936,387.50	374,187.50	82,070.50	544,978.50	106,590.00	3,044,214.00
09/30/2015	1,935,787.50	370,687.50	82,070.50	543,296.00	106,522.50	3,038,364.00
09/30/2016	1,933,387.50	368,787.50	82,070.50	544,946.00	106,439.00	3,035,630.50
09/30/2017	1,934,187.50	375,037.50	82,070.50	544,950.00	106,341.00	3,042,586.50
09/30/2018	1,732,987.50	-	82,070.50	543,250.00	451,228.50	2,809,536.50
09/30/2019	1,734,962.50	-	215,241.25	-	892,478.50	2,842,682.25
09/30/2020	1,414,812.50	-	216,389.00	-	895,798.50	2,527,000.00
09/30/2021	1,416,137.50	-	217,176.50	-	946,956.00	2,580,270.00
09/30/2022	1,414,575.00	-	217,632.00	-	659,776.00	2,291,983.00
09/30/2023	1,415,025.00	-	217,781.50	-	-	1,632,806.50
09/30/2024	1,413,275.00	-	217,646.00	-	-	1,630,921.00
09/30/2025	1,414,450.00	-	217,225.75	-	-	1,631,675.75
09/30/2026	1,413,375.00	-	216,513.00	-	-	1,629,888.00
09/30/2027	1,415,050.00	-	215,483.00	-	-	1,630,533.00
09/30/2028	1,414,250.00	-	209,209.25	-	-	1,623,459.25
09/30/2029	1,415,975.00	-	217,489.50	-	-	1,633,464.50
09/30/2030	-	-	215,211.75	-	-	215,211.75
09/30/2031	-	-	217,449.25	-	-	217,449.25
09/30/2032	-	-	214,210.50	-	-	214,210.50
Total	\$30,701,685.00	\$2,256,262.50	\$3,653,865.42	\$4,357,558.78	\$4,558,290.50	\$45,527,662.20

Par Amounts Of Selected Issues

Daphne, AL Series 2006	21,500,000.00
Daphne, AL Series 2010	2,035,000.00
Daphne, AL Refunds Series 2002	2,370,000.00
Daphne, AL Refunds Series 2003	2,680,000.00
Daphne, AL New Money	3,550,000.00
TOTAL	32,135,000.00

Max Annual P&I Change: \$12,029

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OCTOBER 11, 2010
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Small, arrived at 6:35 p.m.; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney arrived at 7:29 p.m.; Erick Bussey, Attorney; Richard Johnson, Public Works Director; Adrienne Jones, Planning Director; Ed Kirby, Planning Commission; Vickie Hinman, Human Resource Director; Kim Briley, Finance Director; Captain Scott Taylor, Police Department; Scott Hutchinson, City Engineer; Willie Robison, BZA.

Absent: Mayor Small.

Council President Palumbo called the meeting to order at 6:34 p.m.

1. STAGG GRANT / ASHLEY CAMPBELL

Mrs. Campbell stated that she has been working with the city and the Environmental Protection Agency (EPA) to apply for a STAGG grant which is a special appropriations grant. This is basically some money that was set aside for Foley, Fairhope and Daphne. They have already applied, prepared an application, for part of the grant money that was for the City of Daphne. However, during the application process they were informed that Fairhope has decided to not use their money, and after talking with the EPA they have agreed to allow the City of Foley and the City of Daphne to split Fairhope's money in half if the council and the mayor will approve it. Foley's council and mayor have to approve it also. Both cities have to write a letter from the city signed by council or the mayor. The city already has an application at the EPA for the city's part of the grant which is \$367,880, and a you can see on the hand out the Federal share of that is \$202,334, and the city's 45% in-kind match would be \$165,546 totaling the \$367,880, and they are just waiting to be notified. They have also told them they could apply for Fairhope's half share. She is asking council for approval to apply for half share of Fairhope's money which would be \$183,940, the Federal share would be \$101,167 and the city share would be \$82,773 which can be in-kind or cash match, and also if they are awarded the application for council to go ahead and set aside the funds for the in-kind match. One of the questions that she has been asked is why does the city need the additional funds? She said first reason is that they knew when they originally applied they were not sure that they can completely do all the inventory of all the infrastructure in the city. She is talking about streets, storm water outfalls, detention basins etc. This would help to complete the entire city, and if not it would get them a lot closer to completion. A second reason to apply for additional funds is to entertain the thought of hiring a network specialist to assist them in this project. One of the most difficult things about this is upgrading with new software, hardware and actually connecting it all with the internet, and all the different connections, because they would need to go from Public Works and throughout City Hall. They would like to hire a staff person to help them through an 18 month grant application. That is not set in stone it is just something they would like to entertain. Another aspect is the MS-4 Permit which requires the city to keep this data base, and it requires the city to have it and updated and to have a maintenance program for all the pipes and storm water outfalls. The third reason this software and hardware would not only track the city's infrastructure, but it can be used to track other data sets. It can be used to track bridge inventory, all maintenance through Public Works, inspections, paving histories, how many linear feet of roads are in the city,

and punch a couple of buttons and you can come up with a cost on resurfacing. This infrastructure database and hardware – software package not only will serve for storm water uses, but it would be an asset to the city overall for the ability to maintain and function more economically. One other question she had was is this going to be a duplicated effort? Is the new Baldwin County Storm Water Coalition going to come in and have money to do this. No, this is not a duplication of effort. That funding will be used for certain projects that have already been chosen, and inventorying the City of Daphne’s infrastructure is not one of the projects. What will happen to the money if the city does not take it? Foley does want it all, and so if the city does not apply for it they will do a letter stating the city does not want the money, and then it will go to Foley. If council chooses to add this percentage from Fairhope the overall grant application will be for \$551,820, the Federal share will be \$303,501, and the city share will be \$248,319. This is not set in stone, but they are assuming that the in-kind labor would be half of that so they could do about \$125,000 in staff doing inventorying, and IT support would add to that total. They do predict that there will be some cash match, and they have it listed as \$124,159, but that could go down drastically if they decide to go with an IT network specialist person. Mrs. Campbell said that the original application went through the Finance Committee, and this is a request to apply for the additional funds.

Council asked who would administer the funds.

Mrs. Campbell said that the grants would be separate for each city, and the city will administer the funds for City of Daphne.

Consensus of council was to send this to the Finance Committee for a recommendation.

Council President Pro tem Barnette asked Mrs. Campbell to provide a full scope of work, budget and timeline with Mrs. Briley’s recommendations and concerns addressed for the November meeting.

2. LAND USE ORDINANCE / ADRIENNE JONES, PLANNING DIRECTOR

Mrs. Jones stated that the Planning Commission has sent to council three (3) proposed changes to the Table of Permitted Uses that concern B-1 zoning district. One of the proposals that she talked about last month was convenient store where the Planning Commission is proposing to remove the “by right” use category and replace it with Planning Commission approval, and it will remain approved “by right” in a B-2 zoning district, but again in B-1 it will be by the Planning Commission approval. The second item is a bowling alley, and it is currently allowed in the Table of Permitted Uses “by right” in a B-2 zoning district only, and the Planning Commission is proposing to add it to the Table of Uses as being by the Planning Commission approval in B-1 district. The Planning Commission sent the recommendation with an unfavorable recommendation, because for zoning there has to be six (6) affirmative votes to make it a favorable recommendation. There were six (6) people there, and four (4) voted in the affirmative, one (1) abstained and one (1) dissented so because they did not have a unanimous six (6) vote it came to council as being unfavorable, but the majority did say to approve it. To piggy back that the Planning Commission also sent forward a Family Entertainment Center district that will be a new use in the table as well as in the zoning ordinance, and the Planning

Commission recommended that it be placed in a B-1 district with the Planning Commission's approval. One thing that they did not, and they may need to consider, is to have it also in a B-2 "by right", because you have it in at least two (2) categories of being approved.

Consensus of council was that they were not in favor of giving the Planning Commission approval rights, because they feel the people they represent need to have a voice in these type of decisions.

Council President Pro tem Barnette requested that these proposed amendments to the Land Use Ordinance / modifying the Table of Permitted Uses for the bowling alley, Family Entertainment Center and Convenient Store be on the agenda for Monday's meeting to set a Public Hearing to consider these items. She asked Mr. Ross to send council a definition of Family Entertainment Center so that that action would be something that council wants or does not want.

3. MEDIA COM FRANCHISE AGREEMENT / ERICK BUSSEY / MR. GENE WOOSHNER, DIRECTOR OF OPERATIONS FOR MEDIA COM

Mr. Bussey said that currently the city has had three (3) different franchise agreements operating at one time with Media Com, and Media Com has been a successor to various different entities who have had franchise agreements with the city. One of the main purposes of the proposed franchise agreement before council is to merge all three of those agreements for 15 years which they are finding is standard and common place. It is a five percent (5%) annual gross revenue reimbursement to the city which is somewhere in the neighborhood of \$165,000, and at 15 years somewhere around \$2.5 million. They had employed a gentleman by the name of John Howell out of North Carolina, and he is an expert in this field where he is a liaison between municipalities and cable providers. He worked at length on the city's behalf with Media Com and assisted to structure what they feel is a very fair agreement. Media Com desires to be in the city, and they would like them to remain in the city. The previous Franchise Agreement with Media Com did not have a density requirement, but in the proposed agreement will have a density requirement where you have to have five (5) homes per 1320 cable-bearing strand feet (one-quarter cable mile). Media Com will have to abide by FCC Customer Service Standards. They will be responsible for obtaining a \$25,000 Performance Bond pertaining to the Franchise Agreement. Any time they have a disturbed right-of-ways Media Com will be responsible for following the standard protocol the city already has in the code of ordinances to essentially replace the right-of-way to the way it was before disturbing the right-of-way working along with Mrs. Ashley Campbell and the Public Works Department to make sure all the i's are dotted and the t's are crossed. They have expanded the term gross revenue is, more or less, to encompass everything you could think of that has to do with cable related services. There will be a PEG channel that is a bulletin board channel that flashes up things that are going on in the community. It is like a community bulletin board.

Council President Pro tem Barnette asked if the city required all utilities be placed underground would Media Com comply.

Mr. Bussey and Mr. Wooshner answered yes.

Council President Pro tem Barnette requested that the Media Com Franchise Agreement be placed on the council agenda for Monday's council meeting.

4. RECYCLE FY 2011/CAPITAL EQUIPMENT/STAFF/OPERATION BUDGET /
RICHARD JOHNSON, PUBLIC WORKS DIRECTOR

Mr. Johnson reported to council that to continue in the recycle business there must be an investment in the program. This was first broached at the Public Works meeting last month, and was discussed at the Finance Committee meeting today. He said from a personal observation there is a perceived lack of commitment to the program. That lack sometimes makes itself apparent through the council, through the Public Works Department itself, and also through the community in a decrease of participation. He thinks that they are at a juncture in recycling. He said that as they go forward from today, and there is an affirmation that this is a program that will be a component of the City of Daphne his commitment to the council is as their Public Works Director is that he will make recycling job one in Public Works, they will establish a community outreach program involving recycling, they will promote pilot programs, which they have already started at one of the schools, and are working toward the others, and they will work to encourage full public participation in the recycling program. He was asked by someone in the community where he stood on recycling, and that is a tough, tough question for him, because as a citizen of Daphne, which he is, and he was a citizen for five and one half years before coming to work for the city, his perception of recycling is that it is a social responsibility. It is a community obligation when he and his family was looking for a place to live they weighed many things from sidewalks to parks and recreation to services the city provided, and when you boil it down Daphne ranks high there. He believes that recycling is a public good even though it is not a public necessity, and first of all in the City of Daphne the solid waste operations is a public value, and he thinks the first thing when they speak of this under the solid waste operations for \$13.90 a residential household receives the following services weekly, curbside trash, curbside garbage and curbside recycling. Thinks about it \$13.90 a month take that amount and divide it by an average of four (4) weeks it is a very small amount of money and they are able to send crews and trucks once a week to every resident and provide trash, garbage and recycling, and believe it or not this year the solid waste program will end up in the black meaning that it brought in more dollars than it spent to operate. All of that said where do they stand? The biggest issue that they face today even to continue the program in the form that it exists today there is an equipment requirement today. He handed out a packet of information to council earlier. *(The packet is spread out upon these minutes)* Packet includes what was spent to keep three trucks operating and pictures of trucks. Mr. Johnson said that truck 788 has been retired, and it is now a parts vehicle. He included photos of the three trucks. He thinks that you can judge their frugality by getting the most out of a piece of equipment these three trucks symbolize that they have gotten every usable bit of garbage and recycling that they could ask from these pieces of equipment. He said if council wants him to put his accounting hat on as the Public Works Director and bottom line things recycling is not a good fiscal program meaning that it will in the foreseeable future will have very limited chance of breaking even or getting close to breaking even, but then they have to weigh it against the other obligations they have as a city. The current program consists of curbside recycling, single stream, meaning that the citizens are ask to place their recyclables in a bin, and put out on the street on their assigned day, and they do not

have to sort it at home, that container is dumped in a rear loading truck, and it comes to the recycling center where it is tipped on the floor, and then that material is transferred to a much larger truck that goes to a wholesale recycler who then takes that product and breaks it down into its core components, hopefully, at a profit, and the city is paid a straight dollar per ton of mixed recyclables. In the budgetary preparation cycle he worked with the solid waste folks and put together four options (*included in packet which is spread out upon these minutes.*) Mr. Johnson reviewed the four options that were presented. He does not believe that they have the volume to pursue option number three (3). He does not believe that the income increase would justify the expense outgoing. Mr. Johnson recommended option two (2) a rear loading truck even though option one (1) has some very attractive components if they chose option one (1) would, basically, make the recycling bins unusable to the citizens. The rear loading trucks can handle the bins as well as the roll down carts, because they have the little tippers on the back. The need for council to make a decision is important, because they learned from last year going to automated garbage collection that even though council can rule it to happen, but the process of getting the specifications out and going out to bid and acquiring the equipment is time consuming. In a perfect world if everything hit on every cylinder they possibly would not new equipment until somewhere in the second quarter of the fiscal year February or March of 2011. He is also greatly concerned that they may have a catastrophic failure of one of the existing pieces of equipment that would be unpalatable to him, as the Public Works Director, to invest that type of money to get it back running for a short period of time, and then they would have to scramble to try to figure out how they were going to collect recycling. By ordinance he is required to operate a recycling program, and eventually they are going to have to have the equipment to do it if that is going to be the program that they operate in the city.

Council discussed using BP money to purchase trucks.

Mr. Johnson stated that there are grants through ADEM with no cost match for which the city can apply. They have been remiss in letting the year go by and not pursuing this avenue.

Council President Barnette stated that this could go on the agenda for the work session in November, and ask Mrs. Briley and the mayor if they would give them an update of where the BP money is going, and how the money might be reallocated and utilized.

Mayor Small suggested charging an extra five (5) dollars a month for recycling to help put recycling in the black. The reason they do not have money set aside for equipment is they were constantly giving the credits that came in through garbage over to recycling.

Council discussed outsourcing recycling or offering limited centralized drop off facility recycling as options.

Council President Barnette would like the city to apply for the ADEM grants, and instead penalizing those for recycling with an extra charge to charge those who ask for extra garbage cans, because they are trying to encourage recycling. She would like to explore instead of dropping off at the Public Works building to work with a vendor where they could take the debris, and they do not have the step of depositing the material on site.

Mr. Johnson said that the buyer provides the truck, and transportation to take it from Public Works to his facility. They have to have that because the trucks they have cannot make it to Loxley. It is not safe to have them on a 55 mph road. He said in that case it still may be a better deal to tip it and put it in a larger rig, because they are saving the mileage and fuel on that truck to run and at the end of the day if the truck is not completely full and they are taking it to empty, because they are not supposed to leave refuse in the back of trucks, it can become inefficient. They see that with garbage collection, but in this case he thinks the additional cost of using a piece of small equipment to push it into a larger truck is really relatively small as compared to the cost of running those trucks round trip down the road every day, especially if they end up with a buyer who is further away who is willing to pay more, but he is still willing to carry the freight cost of transferring.

Council President Barnette asked Mr. Johnson if he could attempt to present some figures for the city much like what the county does as far as a drop off facility for the next work session. A guesstimate of what a City of Daphne drop off facility would cost to manage or run.

Mr. Johnson said that he would be able to do that especially considering that the city already has that facility. There are a dozen large blue bins that are arranged by name glass, aluminum, etc., and on Monday morning they are overflowing. They know what that cost is to handle that, and assuming that that remains the centralized drop off point he can give them hard figures the next time they get together. They know how much money they spend to empty, and get the stuff moved and put into the transfer truck.

Council President Pro tem Barnette asked if he would take it a step further, and she thinks he would to some extent need to extrapolate out the fact that the city is not picking any up, so they may need to expand the bins and space. She asked Mr. Johnson if he was prepared to discuss the Solid Waste Authority at the Public Works meeting next Monday.

Mr. Johnson said that he had the assignment to give them the Reader's Digest print of the background of the Solid Waste Authority.

5. ROTATE COUNCIL PRESIDENT

Councilman Yelding stated that predicated on the process that was suggested last year to use for rotating Council President that whoever served as Council President Pro tem would rotate to Council President for the next term unless there is a Councilman that would disagree with that. He thinks they should stay with that format.

Mr. Scott

6. ADJOURN

There being no further business to discuss the meeting adjourned at 9:22 p.m.

**OCTOBER 11, 2010
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

7

Respectfully submitted by,

**David L. Cohen,
City Clerk, MMC**

Certification of Presiding Officer:

**August A. Palumbo,
Council President**

PUBLIC HEARINGS FOR:
OCTOBER 18, 2010

1.) **Annexation: Richard S. Higbee**

Located: Northwest of the intersection of County Road 13
& Whispering Pines Road

Present Zoning: RSF-2, Single Family District, in Baldwin
County District 15

Requested Zoning: B-1, Local Business District, City of
Daphne / **Ordinance 2010-60**

2.) **Rezone: A & B-10, LLC**

Located: Northeast of the intersection of Whispering Pines
Road and Parker Lane, north of Madison Place

Subdivision, Phase Two, north of Caroline Woods, Phase
One and Two and west of Daphne Business Park, Phase Two

Present Zoning: R-3, High Density Single Family District,
City of Daphne

Requested Zoning: R-4, High Density Single Family
District, City of Daphne / **Ordinance 2010-61**

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Mr. Richard S. Higbee
Annexation Review
Date: August 30, 2010

MEMORANDUM

PRESENT ZONING: RSF-2, Single Family District, in Baldwin County District 15

PROPOSED ZONING: B-1, Local Business, and B-3, Professional Business, City of Daphne

LOCATION: Northwest of the intersection of County Road 13 and Whispering Pines Road

RECOMMENDATION: At the August 26, 2010, regular meeting of the City of Daphne Planning Commission, seven members were present and the motion carried for a **favorable recommendation** for the above-mentioned petition for annexation with B-1 and B-3 zoning.

Upon receipt of said documentation, please prepare an ordinance and place on the Tuesday, September 6, 2010 City Council agenda to set the public hearing for Monday, October 18, 2010.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Petition
2. Legal description
3. Map of property

STATE OF ALABAMA
COUNTY OF BALDWIN

PETITION FOR ANNEXATION OF CERTAIN PROPERTY
INTO THE CORPORATE LIMITS OF THE MUNICIPALITY
OF THE CITY OF DAPHNE, ALABAMA

(_____)

The undersigned, Richard S Higbee, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as Higbee Property to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

1. Description Of Property: The description of the property which Petitioner requests to be annexed into the City of Daphne is described in Exhibit "A" attached hereto and made a part of this Petition as if fully set out herein (the "Property").

2. Map Of Property: Attached hereto as Exhibit "B" and made a part of this Petition, is a map of the Property showing its relationship to the corporate limits of the municipality of the City of Daphne.

3. Owner: The Petitioner, Richard S Higbee, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

4. Specific Conditions: This Petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said Property into the corporate limits of the City of Daphne. Please state the requested zoning, if other than R-1, or any other conditions which may apply upon annexation:

B-1 Zoning for 6.5 Acres

B-3 Zoning for 13.38 Acres

5. Code: This Petition is filed pursuant to the provisions of Article 21, Chapter 42, Title 11, Code of Alabama, 1975, as amended.

DATED this 18 day of August,
2010.

Respectfully submitted,

By: Richard S. Higbee

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that RICHARDS. HIGBEE whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 18 day
of August, 2010.

Nasha LaCoste (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 11-18-2012

**RICHARD S. HIGBEE
ANNEXATION REVIEW
NORTHWEST OF THE INTERSECTION OF
WHISPERING PINES ROAD AND COUNTY ROAD 13
EXHIBIT "A"**

(RESUBDIVISION OF LOT 1, HIGBEE SUBDIVISION)

LEGAL DESCRIPTION:

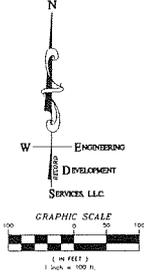
(TO BE KNOWN AS LOT B-1- B-1, LOCAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 958.54 FEET; THENCE RUN SOUTH 44 DEGREES 52 MINUTES 16 SECONDS WEST, A DISTANCE OF 141.12 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 382.47 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 176.51 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 252.46 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 880.00 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING. CONTAINING 6.5 ACRES, MORE OR LESS.

(TO BE KNOWN AS LOT B-3 - B-3, PROFESSIONAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; SAID POINT BEING THE POINT OF BEGINNING; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 230.00 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 880.00 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 252.46 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 176.51 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 190.04 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 43 SECONDS WEST, A DISTANCE OF 1295.54 FEET; THENCE RUN SOUTH 89 DEGREES 58 MINUTES 38 SECONDS EAST, A DISTANCE OF 672.41 FEET TO THE POINT OF BEGINNING. CONTAINING 13.38 ACRES, MORE OR LESS.

RICHARD S. HIGBEE ANNEXATION REVIEW EXHIBIT "B"



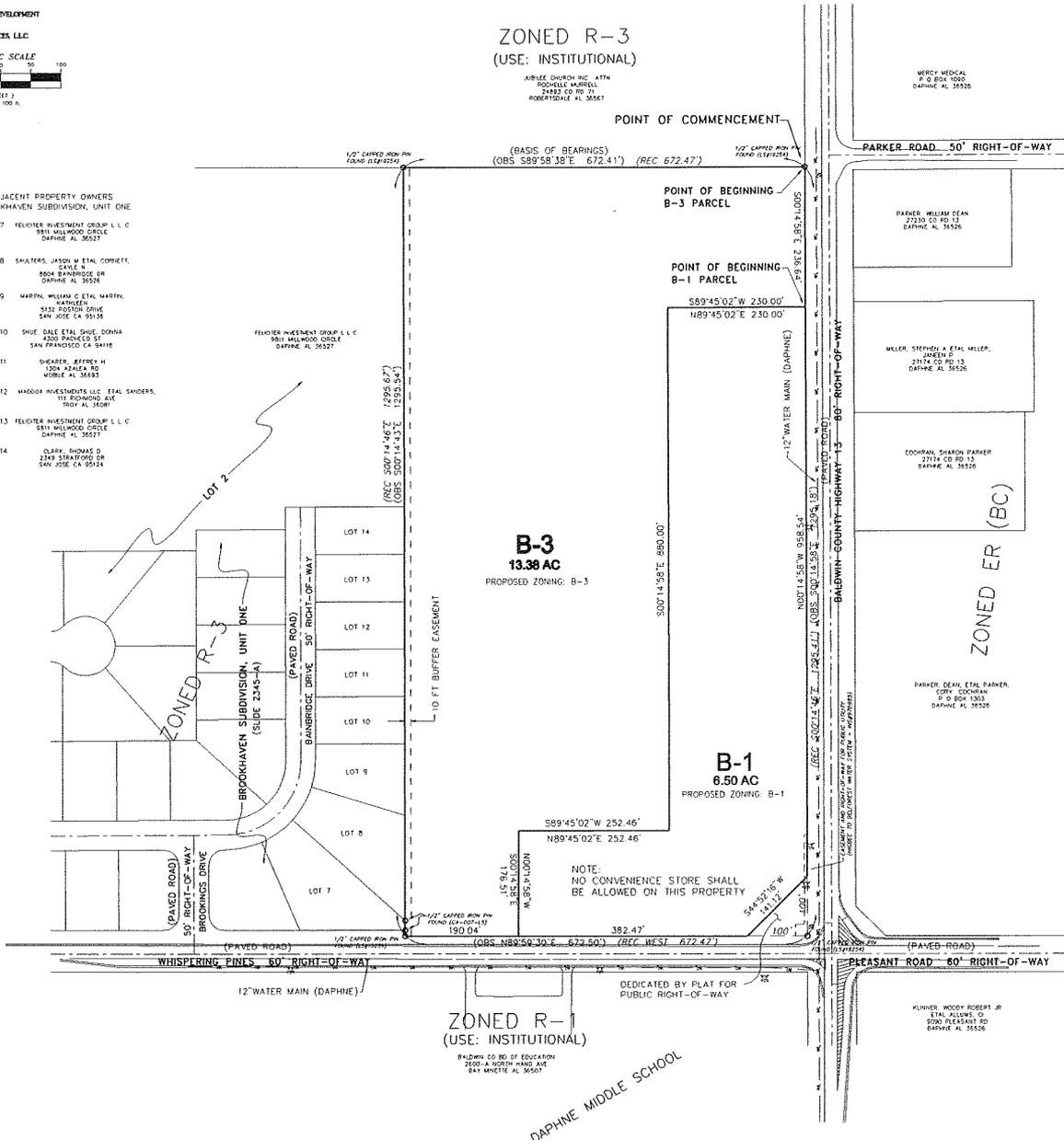
**ZONED R-3
(USE: INSTITUTIONAL)**

AUNEE CHURCH INC. ATTN:
ROCHELLE A. MARRELL
2483 CO RD 21
ROBERTSDALE AL 36367

MERCY MEDICAL
P O BOX 1000
DAPHNE AL 36526

ADJACENT PROPERTY OWNERS
BROOKHAVEN SUBDIVISION, UNIT ONE

- LOT 7 FEKSTER INVESTMENT GROUP L.L.C.
5911 WILLOW CIRCLE
DAPHNE AL 36527
- LOT 8 SMALTERS, JASON W ETAL, CORNETT,
SARLE A
8004 BANBRIDGE DR
DAPHNE AL 36526
- LOT 9 WATKINS, WILLIAM C ETAL, MARTIN,
KATHLEEN
5132 BROOKTON DRIVE
SAN JOSE CA 95136
- LOT 10 SHUE, DALE ETAL SHUE, DONNA
4300 PARKWOOD ST
SAN FRANCISCO CA 94116
- LOT 11 SHEARER, JEFFREY H
1500 STRAHER RD
MOBILE AL 36683
- LOT 12 MADDIX INVESTMENTS LLC ETAL SANDERS,
TROY AL 36081
- LOT 13 FEKSTER INVESTMENT GROUP L.L.C.
5911 WILLOW CIRCLE
DAPHNE AL 36527
- LOT 14 OLAPY, THOMAS D
2349 STRATFORD DR
SAN JOSE CA 95124



ORDINANCE NO. 2010-60

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

Higbee Property

(Located on Northwest of the intersection of County Road 13 and Whispering Pines Road)

**BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS
FOLLOWS:**

WHEREAS, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

WHEREAS, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

WHEREAS, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on August 26, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-1, Local Business and B-3, Professional Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on October 18, 2010 concerning the petition for annexation; and,

WHEREAS, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DAPHNE, ALABAMA**, as follows:

SECTION 1: CONSENT TO ANNEXATION. The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

SECTION 2: THE PROPERTY. That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

SECTION 3: MAP OF PROPERTY. The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

SECTION 4: PUBLICATION. This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

SECTION 5: PROBATE COURT. A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

“Exhibit A”

LEGAL DESCRIPTION:

(TO BE KNOWN AS LOT B-1- B-1, LOCAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 958.54 FEET; THENCE RUN SOUTH 44 DEGREES 52 MINUTES 16 SECONDS WEST, A DISTANCE OF 141.12 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 382.47 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 176.51 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 252.46 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 880.00 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING. CONTAINING 6.5 ACRES, MORE OR LESS.

(TO BE KNOWN AS LOT B-3 - B-3, PROFESSIONAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; SAID POINT BEING THE POINT OF BEGINNING; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 230.00 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 880.00 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 252.46 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 176.51 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 190.04 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 43 SECONDS WEST, A DISTANCE OF 1295.54 FEET; THENCE RUN SOUTH 89 DEGREES 58 MINUTES 38 SECONDS EAST, A DISTANCE OF 672.41 FEET TO THE POINT OF BEGINNING. CONTAINING 13.38 ACRES, MORE OR LESS.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA on this _____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen
City Clerk, MMC

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: A & B-10, L.L.C.
Zoning Amendment Review
Date: August 30, 2010

MEMORANDUM

PRESENT ZONING: R-3, High Density Single Family District, City of Daphne

PROPOSED ZONING: R-4, High Density Single Family District, City of Daphne

LOCATION: Northeast of the intersection of Whispering Pines Road and Parker Lane, north of Madison Place Subdivision, Phase Two, north of Caroline Woods, Phases One and Two and west of Daphne Business Park, Phase Two

RECOMMENDATION: At the August 26, 2010, regular meeting of the City of Daphne Planning Commission, seven members were present and the motion carried for a ***favorable recommendation*** for the above-mentioned zoning amendment with R-4 zoning.

Upon receipt of said documentation, please prepare an ordinance and place on the Tuesday, September 6, 2010 City Council agenda to set the public hearing for Monday, October 18, 2010.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Petition
2. Legal description
3. Map of property
4. Adjacent property owners' list

THE CITY OF DAPHNE
PLANNING DEPARTMENT
APPLICATION FOR ZONING AMENDMENT

Application Number: Z10-02 Date Plat Submitted: 7/26/10

Date Presented: 8/26/10

Name of Owner: A & B -10, LLC

Address: 9499 BELLATON AVE DAPHNE, AL 36526 Telephone# 626-2122
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: EDS L.L.C.

Address: 9499 BELLATON AVE DAPHNE, AL 36526 Telephone# 626-2122
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: TO BE KNOWN AS CAROLINE WOODS, PHASE THREE

Lot(s): _____ Unit _____

- Two (2) copies of legal description of the subject property.
- Two (2) copies of subdivision plat or site plan drawn to scale, (28" x 36").
- List of the names and mailing addresses for the adjacent property owners (Date Submitted: 07-26-10).

Meeting Dates:

Planning Commission: August 24, 2010

City Council: _____

Reason(s) for requesting the Zoning Amendment:
TO DEVELOP PATIO GARDEN HOMES SIMILAR TO CAROLINE WOODS PHASE TWO

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

(Application for a Zoning Amendment information shall be that of the owner of the subject property).

Revised: March 18, 2004

APPLICATION FOR ZONING AMENDMENT

STATE OF ALABAMA)
COUNTY OF BALDWIN)
CITY OF DAPHNE)

This is to certify that I (we) the undersigned am the owner(s) of said property and do hereby request the City of Daphne to grant a Zoning Amendment for said property for the reasons outlined herein:

1) Description of property for which amendment is requested:

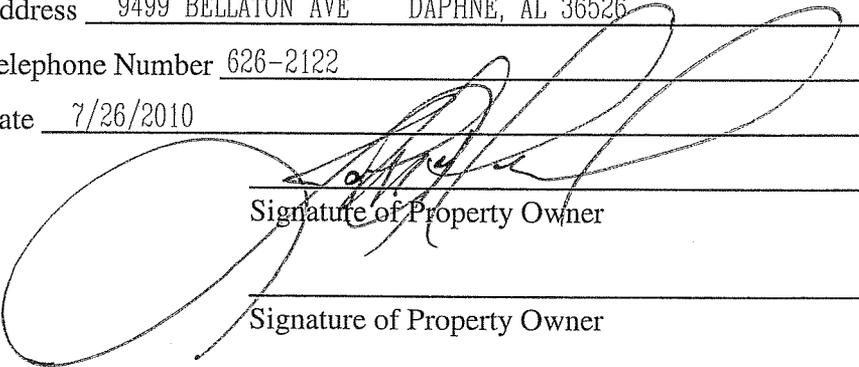
- a) Address _____
- b) Name of Subdivision TO BE KNOWN AS CAROLINE WOODS PHASE ~~TWO~~ THREE
- c) Lot numbers involved in change N/A
- d) Total acreage of change 12.44 AC.
- e) Recorded in Map Book N/A Page _____
- f) Owned in whole by the undersigned? YES
- g) If owned in part, name(s) of co-owner(s) :

2) Zoning change requested:

- a) Present classification of property R-3 SF
- b) Reclassification desired R-4 S.F.
- c) Character of neighborhood R-4 AND R-3 SINGLE FAMILY RESIDENTIAL

3) Certifications:

- a) Owner's Name A & B - 10 , LLC
- b) Address 9499 BELLATON AVE DAPHNE, AL 36526
- c) Telephone Number 626-2122
- d) Date 7/26/2010



Signature of Property Owner

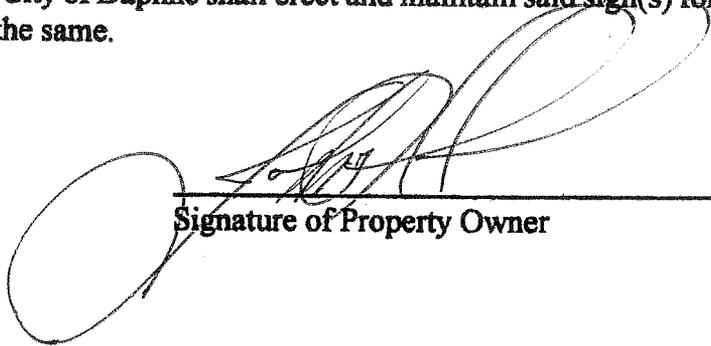
Signature of Property Owner

AGREEMENT

...ALLOWING THE CITY OF DAPHNE TO POST PUBLIC NOTICE SIGNS ON THE PROPERTY FOR WHICH AN APPLICATION FOR A ZONING AMENDMENT HAS BEEN SUBMITTED TO THE CITY COUNCIL.

I hereby agree to allow the City of Daphne to post on my property, for which an application for a zoning amendment has been submitted to the City Council, a sign or sign(s) notifying the general public of said request. I understand the City of Daphne shall erect and maintain said sign(s) for the prescribed period of time and remove the same.

7/20/10
Date


Signature of Property Owner

A & B-10, L.L.C
ZONING AMENDMENT REVIEW
NORTHEAST OF THE INTERSECTION OF
WHISPERING PINES ROAD AND PARKER LANE,
NORTH OF CAROLINE WOODS SUBDIVISION, PHASE TWO
EXHIBIT "A"

(CAROLINE WOODS SUBDIVISION, PHASE THREE)

LEGAL DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF LOT NUMBER 12 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING; THENCE RUN EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 614.76 FEET, AN ARC DISTANCE OF 45.51 FEET, (CHORD BEARS SOUTH 87 DEGREES 58 MINUTES 43 SECONDS EAST FOR 45.50 FEET); THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 79.53 FEET; THENCE RUN SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET, (CHORD BEARS SOUTH 40 DEGREES 51 MINUTES 27 SECONDS EAST FOR 35.35 FEET); THENCE RUN SOUTH 78 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.36 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 92.25 FEET; THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 152.00 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 43.15 FEET; THENCE RUN NORTH 01 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 73.81 FEET; THENCE RUN NORTH 00 DEGREES 03 MINUTES 54 SECONDS WEST, A DISTANCE OF 388.21 FEET; THENCE RUN NORTH 89 DEGREES 55 MINUTES 26 SECONDS WEST, A DISTANCE OF 1,319.93 FEET; THENCE RUN SOUTH 00 DEGREES 07 MINUTES 50 SECONDS WEST, A DISTANCE OF 365.76 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 100.29 FEET; THENCE RUN SOUTH 78 DEGREES 46 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.96 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 576.12 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, A DISTANCE OF 174.30 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, A DISTANCE OF 54.45' TO THE POINT OF BEGINNING. CONTAINING 12.44 ACRES, MORE OR LESS, AND LYING IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

A & B -10, LLC REZONING
ADJ OWNERS
WITHIN 300 FEET

A & B-10 L L C
P O BOX 1395
DAPHNE AL 36526

BALBACH, DEBORAH A
27326 ELISE COURT
DAPHNE AL 36526

BENCHMARK HOMES INC
2936 MCVAY DR N
MOBILE AL 36606

COOPER, W J ETAL COOPER, KAYLA
7841 EAGLE CREEK DR WEST
DAPHNE AL 36526

CROSON, JAMES E ETAL CROSON,
BETTY B
7802 WEST EAGLE CREEK DR
DAPHNE AL 36526

DAPHNE CITY OF
P O BOX 400
DAPHNE AL 36526

DAPHNE COMMERCIAL LOT OWNER'S
ASSOCIATIO
24190 US HWY 98
FAIRHOPE AL 36532

DUPLIN, ROB G
7854 EAGLE CREEK DR WEST
DAPHNE AL 36526

EAGLE CREEK HOMEOWNERS
ASSOCIATION INC
C/O CHERYL MOONEY P O BOX 1793
DAPHNE AL 36526

EARTH INC
P O BOX 220
DAPHNE AL 36526

ELITE DEVELOPMENT COMPANY L L C
P O DRAWER 1629
FOLEY AL 36536

FOX, ROBERT P ETAL FOX, CHARLOTTE
G
7824 EAGLE CREEK DR W
DAPHNE AL 36526

GILES, KIMBERLY A
7815 EAGLE CREEK DR WEST
DAPHNE AL 36526

HALLEMANN, A J ETAL HALLEMANN,
JOLEEN C
7812 WEST EAGLE CREEK DRIVE
DAPHNE AL 36526

HUR, JUNG
5281 E WINDSOR RD #8
GLENDALE CA 91205

KIRBY, JERRY ETAL KIRBY, SHAWNA
157 COUNTRY CLUB DR
DAPHNE AL 36526

MABIRE, JONATHAN B
27311 ELISE CT
DAPHNE AL 36526

MAVERICK CAPITAL L L C
416 TRAVIS ST SUITE #715
SHREVEPORT LA 71101

MOONEY, BILLY T ETAL MOONEY,
CHERYL A
7846 EAGLE CREEK DR WEST
DAPHNE AL 36526

OUTLAW, FREDERICK G ETAL OUTLAW,
AMANDA
7860 EAGLE CREEK DR W
DAPHNE AL 36526

SBS INVESTMENTS L L C
3280 DAUPHIN STREET SUITE B125
MOBILE AL 36606

VANNOY, JASON L ETAL VANNOY, KATIE
7840 EAGLE CREEK DR
DAPHNE AL 36526

WHEATLEY, JUDY L
7774 EAGLE CREEK DR W
DAPHNE AL 36526

WORLD COURT L L C
27548 WORLD COURT
DAPHNE AL 36526

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF AUGUST 26, 2010 **REPORT**
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

1. CALL TO ORDER DATE: AUGUST 27, 2010

2. CALL OF ROLL ADJ/JD

3.. APPROVAL OF MINUTES:

Review of minutes for the regular meeting of July 22, 2010. (APPROVED WITH ONE REVISION)

4. NEW BUSINESS:

A. SITE PLAN REVIEW: (APPROVED)

1. File S10-11: (Revised Site Plan)

Site: 2nd Office Building on Lot A-2, Bellaton Phase Two

Zoning: B-1, Local Business

Location: Southwest of the intersection of Alabama Highway 181 and Bellaton Avenue

Area: 0.69 Acres ±

Owner: A & B, L.L.C. - John Avent or Joe Bullock

Engineer: Engineering Development Services - David Diehl

B. PETITIONS:

ANNEXATION REVIEW:

Presentation to be given by Mr. David Diehl, representing Engineering Development Services, requesting annexation of a nineteen point eight-eight acre parcel into the City of Daphne located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning. The subject property is currently zoned RSF-2, Residential Single Family District, Baldwin County District 15. Richard S. Higbee, owner. (FAVORABLE RECOMMENDATION)

ZONING AMENDMENT: (FAVORABLE RECOMMENDATION)

Present Zoning: R-3, High Density Single Family Residential

Proposed Zoning: R-4, High Density Single Family Residential

File Z10-02: A & B-10, L.L.C. (Reference: Caroline Woods, Phase Three formally known as Madison Place Subdivision, Phase Three)

Location: Northeast of the intersection of Whispering Pines Road and Parker Lane, north of Madison Place Subdivision, Phase Two, North of Caroline Woods, Phases One and Two, west of Daphne Business Park, Phase Two

Area: 12.44 Acres ±

Owner: A & B-10, L.L.C. - John Avent or Joe Bullock

Engineer: Engineering Development Services - David Diehl

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF AUGUST 26, 2010 REPORT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

C. PRELIMINARY/FINAL: (TABLED, REQUESTED BY APPLICANT)

1. **File SDPF10-06:** *(Applicant requests to postpone hearing until September 23, 2010)*

Subdivision: Bowden Estates *(Resubdivision of Lot 6, Belforest Plantation)*

Zoning(s): *RA, Rural Agricultural, Baldwin County District 15*

Location: Northwest of County Road 54 East

Area: 12 Acres \pm , (4) lots

Owner: Katrina Bowden Meeker

Surveyor: P.H.L. Land Surveying - Phillip Lindsey

2. **File SDPF10-07: (APPROVED)**

Subdivision: *The Resubdivision of Lot 1, Higbee (associated with the annexation review for Mr. Richard S. Higbee)*

Present Zoning(s): *RSF-2, Residential Single Family District, Baldwin County District 15*

Proposed Zoning(s): *B-1, Local Business, and B-3, Professional Business*

Location: Northwest of intersection of Whispering Pines Road and County Road 13

Area: 19.88 Acres \pm , (2) lots

Owner: Richard S. Higbee

Engineer: Engineering Development Services - David Diehl

D. ADMINISTRATIVE PRESENTATION:

1. **Presentation to be given by Mr. Matt Kountz, representing Geo Surveying, requesting a re-plat review of Lots 239 & 240, Lake Forest Subdivision, Unit Eighteen to remove a common lot line in accordance with Article 11-5 of the Land Use and Development Ordinance. (APPROVED)**
2. **Presentation to be given by Ms. Adrienne Jones, the Director of Community Development, of the proposed amendments to the Daphne Land Use and Development Ordinance regarding creating a C-2, Outdoor Amusement, zoning district. (FAVORABLE RECOMMENDATION)**
3. **Presentation to be given by Ms. Adrienne Jones, the Director of Community Development, of the proposed amendments to the Daphne Land Use and Development Ordinance regarding stand-alone vending machine regulations. (UNFAVORABLE RECOMMENDATION)**

ORDINANCE NO. 2010 - 61

**Ordinance to Rezone Property Located Northeast of the intersection of Whispering Pines Road and Parker Lane (18.44 Acres)
A & B-10, L.L.C.**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3 High Density Single Family District, to R-4 High Density Single Family District, to said property is located, Northeast of the intersection of Whispering Pines Road and Parker Lane being more particularly described as follows:

Legal Description:

COMMENCE AT THE NORTHWEST CORNER OF LOT NUMBER 12 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING; THENCE RUN EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 614.76 FEET, AN ARC DISTANCE OF 45.51 FEET, (CHORD BEARS SOUTH 87 DEGREES 58 MINUTES 43 SECONDS EAST FOR 45.50 FEET); THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 79.53 FEET; THENCE RUN SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET, (CHORD BEARS SOUTH 40 DEGREES 51 MINUTES 27 SECONDS EAST FOR 35.35 FEET); THENCE RUN SOUTH 78 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.36 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 92.25 FEET; THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 152.00 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 43.15 FEET; THENCE RUN NORTH 01 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 73.81 FEET; THENCE RUN NORTH 00 DEGREES 03 MINUTES 54 SECONDS WEST, A DISTANCE OF 388.21 FEET; THENCE RUN NORTH 89 DEGREES 55 MINUTES 26 SECONDS WEST, A DISTANCE OF 1,319.93 FEET; THENCE RUN SOUTH 00 DEGREES 07 MINUTES 50 SECONDS WEST, A DISTANCE OF 365.76 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 100.29 FEET; THENCE RUN SOUTH 78 DEGREES 46 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.96 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 576.12 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, A DISTANCE OF 174.30 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, A DISTANCE OF 54.45' TO THE POINT OF BEGINNING. CONTAINING 12.44 ACRES, MORE OR LESS, AND LYING IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, the Planning Commission of the City of Daphne on August 26, 2010 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, October 18, 2010 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-3 High Density Single Family District, to a R-4 High Density Single Family District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS ____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen
City Clerk, MMC

**CITY COUNCIL MEETING
STANDING COMMITTEE RECOMMENDATIONS:**

FINANCE COMMITTEE REPORT

BUILDINGS & PROPERTY COMMITTEE REPORT

PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT

PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT

PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT

**CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
October 11 2010
4:00 P.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:00 pm. Present were Chairman Derek Boulware, Councilman Ron Scott, Councilman Bailey Yelding, Finance Director Kim Briley, Senior Accountant Suz anne Henson, and Accountant Donna Page.

Also in attendance were Mayor Fred Small, Human Resources Director Vickie Hinman, Public Works Director Richard Johnson, and Human Resources Payroll/Benefits Coordinator Sherree Hilburn.

II. PUBLIC PARTICIPATION

There was no public participation.

III. HUMAN RESOURCES BUSINESS

Ms. Vickie Hinman, Human Resources Director, presented the Human Resources activity update. Positions filled include Admin Tech for PD and Mechanic. Site Containment Inspector and Parks Maintenance Supervisor positions were filled with internal promotions. Interviewing / reference checks are being conducted for the Revenue Officer and seventy-eight applications have been received and are being reviewed for the Public Service Worker (Grounds) position.

The Safety Committee reported that their next building inspection will be City Hall in October, and their next meeting will be October 27 at 8:15 am.

Other Human Resources news include 70 employees enrolled in Flexible Spending which represents a 9% increase from last year with a potential savings to the City of \$2,878.45; new employee orientation is scheduled for Thursday, October 28; and two employees are retiring in October – Rayfield Snowden from Public Works and Deni Biggs from the Civic Center.

IV. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Appropriation Request

1. Recommendation: Accept the Alternate #1 of the bid from M.C. Williams for project: FY 2011-Project 2a Alt #1 – Whispering Pines Rd: US 98 to Pollard Rd (Mill, level and overlay 2 lanes) - \$332,502 + \$31,000 Engineering & Material Testing Costs.

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating (from reserves) \$363,502 for FY 2011 Project 2a Alt #1 – Whispering Pines Rd: US 98 to Pollard Rd... Seconded by Mr. Yelding. Motion carried.

2. Capital Road Improvement Projects – Approval of HMR’s Design Fee - \$299,500

Mr. Johnson submitted a schedule of fees from the city engineers, HMR Engineers, Inc. totaling \$299,500. These are the engineering services associated with the City Council’s motion on Oct 4, 2010. It was noted these fees are for the survey, design, specifications and bidding and that additional engineering fees will apply when any of the projects are approved and actual construction begins:

1. Bay View Drive from Highway 90 (1.42 miles) - \$110,000
2. Ridgewood Drive (½ mile north and ½ mile south of Lawson) - \$132,000
3. Whispering Pines (Pollard Road to US 98)
If Deductive Alternate is returned to existing contractor – No Charge
If New Bid Process is initiated - \$2,500
4. Intersection of US 98 and Whispering Pines - \$15,000
5. Timber Creek Boulevard (Hwy 181 to Hwy 31)(estimated: pending County’s involvement) - \$40,000

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating an amount not to exceed \$299,500 for engineering fees to HMR Engineers, Inc. for the surveys, designs, specifications and bidding of the FY 2011 Capital Roadway Improvement projects. Seconded by Mr. Yelding. Motion carried.

3. Drainage Work @ Claiborne Circle, Sehay Subdivision - \$54,098 + \$6,000 = \$60,098

Mr. Johnson discussed the drainage problem at Claiborne Circle in the Sehay Subdivision. Mr. Johnson discussed the process of removing the plastic piping and replacing with metal piping.

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating \$54,098 for materials and \$6,000 for engineering costs for the drainage work at Claiborne Circle in the Sehay Subdivision. Seconded by Mr. Yelding. Motion carried.

B. Bids

1. 2010-BB-ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER RECLAMATION FACILITY

Ms. Melinda Immel, P.E., with Volkert and Associates, Inc. presented the tabulation of bids for the Energy Efficient Blower Retrofit at the Daphne WRF. Six bids were received with the lowest from Ballcon, Inc. in the amount of \$595,000. Ms. Immel stated that they have worked with Ballcon, Inc. previously and recommend their bid be accepted. It was discussed that the City obtained a \$250,000 Energy Efficiency and Conservation Block Grant for the benefit of Daphne Utilities and that Daphne Utilities is responsible for all costs of the project beyond the \$250,000 grant amount. Discussion was made on the amount of administrative time that would be required by the Finance Department during the bid process, setting up, and reconciling accounts for processing payments. Payment for other administrative costs were discussed.

Motion by Mr. Scott to recommend Council adopt a resolution accepting Volkert’s recommendation and award bid 2010-BB-ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER RECLAMATION FACILITY to Ballcon Inc. in the amount of \$595,000 and for Daphne Utilities to be responsible for all cost associated with this project that exceed the \$250,000 amount (including all administrative costs incurred for this project). Seconded by Mr. Yelding. Motion carried.

2. 2011-A-DAPHNE FIRE DEPARTMENT TRAINING FACILITY

3. 2011-B-SOCCER/FOOTBALL SPORTS LIGHTING PROJECT – TRIONE SPORTS COMPLEX

4. 2011-C-CELLULAR PHONES / 800 MHZ EQUIPMENT

Ms. Henson discussed that Fire Training Facility and the Cell phone bid were opened earlier that day and that after an initial review of the bids it was determined that an additional review was needed on both bids before a staff recommendation could be made. A Special Finance Committee Meeting was set for November 1, 2010 at 5:00 p.m. Discussion continued that the Soccer/Football Sports Lighting bid would open Wednesday, October 13, 2010 and that bid would also be reviewed at the Special meeting. ***See Section VIII Council Comments for discussion regarding the delay of the Soccer/Football Sports Lighting letting of bids.***

C. Declare City Property Surplus:

1. Surplus Summary of Equipment Sold in FY 10

Ms. Henson presented a summary showing surplus equipment sold through Govdeals.com for FY 2010 totals \$57,236.43.

2. Surplus Resolution

Discussion was made that the Police department and the Mechanical supervisor recommended surplus the two Police vehicles listed below:

Dept	Tag/Veh#	Description	Vin # / Serial #
Police	202	2002 Ford Crown Vic	2FAFP71W82X155763
Police	101	2001Ford Crown Vic	2FAFP71W31X129733

Motion by Mr. Yelding to recommend Council adopt a resolution declaring the listed property surplus and authorizing the Mayor to dispose of such equipment. Seconded by Mr. Scott. Motion carried.

V. ISSUES REFERRED TO COUNCIL WORK SESSION

Mr. Frank Weber with Chappelle Consulting Group and Mr. James Rowland with Occidental Benefits Inc. presented comparisons of continuing with fully-insured medical insurance coverage vs changing to a self-insured plan. The City’s medical premiums paid to Blue Cross Blue Shield (BCBS) and claims paid over the last four years were reviewed. Discussion that coverage would remain the same, but the savings to the City could be substantial. This would be the same plan design as the City currently has and BCBS would not be taken away, just the manner in which the monthly billings are paid would be changed. Discussion further that the potential cost savings to the City is the result of taking away the profit margin paid to BCBS in the monthly insurance payments. It was noted that this would not effect the grandfathering of the City’s current plan. Finally, it was noted that with the new healthcare legislation, it would be more cost effective for the City to convert to a self-insured plan.

Motion by Mr. Scott to request a dedicated work session to consider changing to self-insured medical coverage with a goal of implementation by January 1, 2011 if Council desires. Seconded by Mr. Yelding. Motion carried.

VI. CURRENT BUSINESS

1. Finance Personnel Request – FY 11 - \$142,124

Requests and justifications for additional finance personnel were submitted:

- Deputy Finance Director - \$60,000
- Accountant - \$44,427
- Accounting Technician - \$37,697

Ms. Briley discussed the critical need for additional finance personnel. She stated that she is most aware of the current budget situation, but this need has been building for the past 2 years and is necessary for providing timely financial information to the Council and support to the various departments. When relieving the receptionist for lunch, sick days, vacation days, etc the preparation of purchase orders, cash receipts, journal entries, and collection of Daily Deposits stops. Ms. Briley noted some new internal control procedures have been implemented in the revenue department regarding a further separation of duties within revenue. This requires the assistance of finance personnel, which further takes them away from their assigned duties. Ms. Briley noted the additional Accounting Technician will help relieve at the front desk and assist in Revenue so that Purchase Orders, Invoices, Checks, and Cash Receipts, and archiving of City records could continue to be processed. Ms. Briley noted that this person will also assist in the daily mail City mail run and taking deposits to the bank when necessary. Ms. Briley noted that bids are now taking a large amount of the Senior Accountant's time and this position would also assist with some of these clerical duties. It was noted that the understaffing of the Finance Department has hurt the department's ability to implement new programs such as Positive Pay through the bank; remote deposit whereby checks received are processed on site rather than physically going to the bank; the acceptance of credit cards, etc.

Ms. Briley discussed the additional need for another Accountant and a Deputy Finance Director. Ms. Briley discussed the need to hire another CPA. Ms. Briley noted that currently the Finance department is two months behind on reconciliations due to additional work load and that we need additional help to keep current. Ms. Briley noted that with more projects/grants/bids comes more need for additional financial reporting and reconciliation of accounts. Ms. Briley explained the need for separation of duties: cash receipts, making bank deposits, reconciling the associated accounts... and that additional personnel is needed to have the recommended and necessary separation of duties.

2. FY 2011 Budget

The budget for FY 2011 was discussed and noted that Budget Books had been given to Council following the September Finance meeting. Mr. Boulware discussed budget options for presenting a balanced budget are needed.

Mayor Small noted that he is waiting on direction from the Council on whether they want to:

- 1) accept the budget as submitted which would require monies from reserves to balance it, or**
- 2) make cuts in operating expenses which would mean cutting services. Mayor Small stated that Council needs to decide what services need to be cut to balance the budget if they do not want to use monies from reserves.**

Mr. Boulware discussed his concerns on using Reserve monies. Future road projects were discussed and Mr. Yelding noted he understood when the Ordinance was adopted for \$500,000 to be appropriated annually for road projects that these monies would most likely be coming from reserves. Discussion continued that generally at the close of the year less reserves are required than budgeted. Mayor Small discussed the need to limit budget amendments.

3. May Day Park – Thompson Engineering request / notice of payment for services rendered due to extended project timeline

Mr. Johnson presented the project close-out and financial summary for May Day Park parking and boat ramp improvements. The project ran over 90 days which resulted in liquidated damages assessed to the contractor of \$26,880. However the engineer of the project, Thompson Engineering, has indicated they may bill the City for added engineering costs. Mr. Johnson also presented information on resurfacing the boat ramp road from Captain O'Neal to the ramp which would cost \$42,937.50. Mr. Johnson noted that the resurfacing boat ramp project was scheduled to go before the Parks and Recreation Committee at their next meeting and that based on their recommendation, it will come back to the Finance Committee.

4. Recycling Program FY 2011 – Capital Equipment Needs: Staff and Operations

Mr. Johnson presented four options for the Recycling Program and noted this would be presented to Council in the work session following this meeting. He stated of the options presented, in his opinion, Option 2 with the lease purchase of the equipment is the most viable.

5. Evaluation of Investment Manager

Ms. Briley discussed the City's investment account. She noted that this account was opened in 1994. The current balance is approximately \$900,000. She stated that the current advisor is not available when she needs him and she has not received the level of service she feels is needed from the current investment company. (Crabtree Advisory Group). She is currently gathering information and will be bringing this to the next Finance Committee meeting with a recommendation to change investment advisors.

Mr. Rob Johnston with Stifel Nicolaus Investors was present and noted that he had met with Ms. Briley and reviewed the City's portfolio with her. He indicated his willingness to work with the City.

6. Discuss Refunding of Warrants

Ms. Briley submitted information on refunding the 2002 and 2003 warrants. She noted that the most savings would be on the 2002 warrants, which is paid from Lodging Tax collections, as this debt was issued for the acquisition of beach front property. Therefore, refunded "savings" realized on this issue could not be used to offset the debt service of "new" money for paving as debt service on paving projects would be paid out of the General Fund. The 2002 Warrants could be restructured with the refunding to allow for an earlier pay-off of the debt and therefore save more interest and retire the Lodging Tax debt sooner. The current maturity date is 2032.

The savings on refunding the 2003 warrant, estimated at \$86,744, is not sufficient to support the refunding. Ms. Briley also noted that the savings of \$86,744 would be spread over a ten year period.

VII. FINANCIAL REPORTS

A. Treasurer's Report: September 30, 2010

The Treasurer's Report totaling \$19,536,273.23 was presented.

Motion by Mr. Scott to accept the Treasurer's Report as of September 30, 2010, in the amount of \$19,536,273.23. Seconded by Mr. Yelding. Motion carried.

B. Sales and Use Taxes: August 31, 2010

Sales and Use Tax Collected for August 2010	- \$ 771,407
Sales and Use Tax Budgeted for August 2010	- \$ <u>790,714</u>
Over Budget (for August)	- \$ 19,307

YTD Budget Collections Variance – Over Budget - \$ 244,250

C. Lodging Tax Collections, August 31, 2010

The Lodging Tax Collections report shows \$63,323.58 collected for August 2010.

D. Report: New Business Licenses – September 2010

A report showing new businesses licensed in the City for the month of September was presented.

E. Bills Paid Reports – September 2010

The September Bills Paid Report was included in Packet #2.

VIII. COUNCIL COMMENTS

Verbatim comments inserted on request of Finance Chairman Boulware.

Discussion of the Sports Complex lighting bids to be reviewed by the Finance Committee during the Nov 1 Special Meeting:

Discussion continued regarding HMR being the City's engineer for the lighting project.

Councilman Scott: "Derek, we didn't have to go to, you know, HMR to let them add something to you know there are other engineering companies in this city...."

Councilman Yelding: "I can see right now, we gonna have to sit down and revisit our process on how we are going to...."

Councilman Boulware: "You did vote for it"

Councilman Scott: "Yeah I probably regret it"

Councilman Boulware: "But you did vote for it"

Councilman Scott: "Yeah I did vote for it."

Councilman Yelding: "We're going to have to sit down and revisit our process....."

Councilman Scott: "Are you getting paid by HMR? You're their biggest fan in the world. I mean what is the deal going on? I mean you're uh... Is there some kind of relationship or what?"

Councilman Boulware: "My relationship is with the City of Daphne and the taxpayers that elected me, Ron. What is your relationship?"

Councilman Scott: "My relationship is doing the best I can for the City of Daphne to make sure we are the best that we can be, Derek. It's not trying to fight the Mayor on everything and to try to fight everybody else or to put extra work on the department heads to try to prove your point."

Councilman Yelding: "Mr. Chairman...."

Councilman Scott: "I'm sorry."

Councilman Yelding: "Can we go ahead and"

Councilman Boulware: "As long as Ron is done. Are you done?"

Councilman Scott: "I'm done."

Councilman Yelding: "Let's go back to work, to what we are supposed to be doing."

Councilman Boulware: "Moving on then..."

The meeting continued.

At the end of the meeting:

Councilman Boulware: "This is all for the record. This is a public meeting. Councilman Scott made a comment earlier on in this meeting that I must be somehow being paid by our City Engineer so let me go ahead and for the record I deny to that. Councilman Scott's comments were inappropriate, unfounded, baseless,

irresponsible, and unprofessional and I am personally offended that he would take such an action. I expect an apology from Councilman Scott and unless he is able to prove those words.... “

Councilman Scott: “I apologize you are right, you are correct on all of those. It’s just that you have been the biggest defender of HMR and they have had problems all over this City and to the point of us having a delayed project our kids are not able to enjoy lights because you insisted that we go through the City engineer for an electrical engineering situation. For me it would call for certainly a response. The same situation is when Mr. Eady and the Mayor recommended another project that’s out here on Whispering Pines. You disagreed because you wanted to get the project started. It wasn’t about what was the best, you went with... we had other people telling us and Mr Eady was saying we should use a different process and you disagreed. By using the process that we did....”

Councilman Boulware: “Mr. Scott, I accept your apology. This meeting is adjourned.”

Mr. Scott continued to speak.

IX. ADJOURN The meeting was adjourned at 6:07p.m.

Fred Small
Mayor
Vickie Hinman
Human Resources Director



Sherree Hilburn
Payroll and Benefits Coordinator

Michele Hanson
Human Resources Assistant

The Jubilee City

October 7, 2010

HUMAN RESOURCES DEPARTMENT ACTIVITY UPDATE

Jobs Announced	Apps Received	Status
Admin. Tech (PD)		DOH – 10/7/10
Revenue Officer		Interviewing/References
Public Service Worker (Grounds)	78	Apps. being reviewed
Building Maintenance Technician		Job posting: 9/30-10/14
Mechanic		DOH – 10/21/10
Site Containment Inspector		Promotion – 10/7/10
Parks Maintenance Supervisor		Promotion – 9/23/10

Safety Committee:

Next Building inspection in October is City Hall
Next meeting will be October 27, 2010 at 8:15 a.m.

Human Resources Department News:

70 employees enrolled in Flexible Spending - 9% increase from last year;
potential savings of \$2878.45 for City
New Employee Orientation scheduled on Thursday, October 28, 2010
2 employees retiring effective November 1:
(1) Rayfield Snowden (10 years, Public Works)
Retirement party on October 27 at Public Works
(2) Deni Biggs (11 years, Civic Center)
Retirement party on October 29 at Civic Center

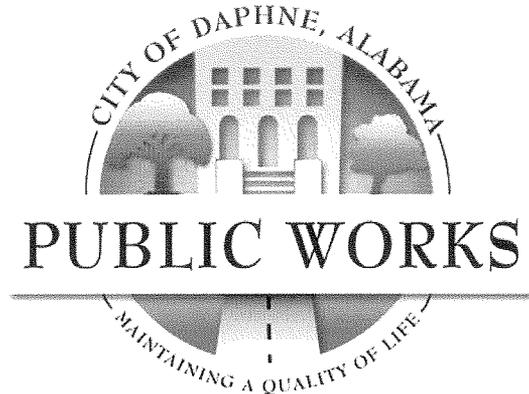
Human Resources Department
P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3075 Fax: (251) 621-4506

Fred Small
Mayor

David Cohen
City Clerk

Kimberly Briley
Finance Director/Treasurer

Richard D. Johnson, P.E.
Director of Public Works



Bailey Yelding, Jr.
District 1

Cathy Barnette
District 2

John L. Lake
District 3

Kelly D. Reese
District 4

Ronald Scott
District 5

Derek Boulware
District 6

August Palumbo
District 7

Memorandum

To: The Honorable Mayor Fred Small
From: Richard D. Johnson, P.E.; Public Works Director
CC: Councilman Derek Boulware; Chairman, Finance Committee; File
Date: October 7, 2010
Re: FY2011 - Project 2a Alt #1 - Whispering Pines Rd: US 98 to Pollard Road



Mr. Mayor:

It is my recommendation to take the following action(s):

Accept the Alternate #1 of the bid from M.C. Williams in the amount of \$332,501.19 for the following City of Daphne Street Improvement Project:

FY2011 - Project 2a Alt #1 - Whispering Pines Rd: US 98 to Pollard Rd (Mill, level and overlay 2 lanes)

Allocate funds and authorize the City Engineer, HMR Engineers, Inc., to issue the Notice to Proceed per the conditions set forth in the attached letter and conduct Construction Engineering and Inspection (CE&I). With Project CE&I Fees not to exceed \$26,000.00 per the attached Professional Services Agreement email.

If the Deductive Alternate is returned to the existing contractor there will be no remaining survey, design, specifications and bidding cost associated with these proposed actions.

(Note: This may require two resolutions: One to accept and one to allocate funding.)

Yours,

RDJ



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

Telephone: (251) 626-2626
Fax: (251) 626-6934

September 30, 2010

Mr. Richard Johnson, Public Works Director
City of Daphne
PO Box 400
Daphne, AL 36526

RE: Whispering Pines Road Deductive Alternate 1
(Pollard Road to U.S. Highway 98)

Dear Richard,

MC Williams Contracting's bid amount for Deductive Alternate 1 is \$332,501.19. With the exception of the rideability of portions of Whispering Pines Road (Highway 13 to Pollard Road), Hutchinson, Moore, and Rauch, LLC (HMR) has found MC Williams Contracting's work to be satisfactory and recommends that the City of Daphne allow them to construct Deductive Alternate 1. To insure that the rideability of Whispering Pines Road (Highway 13 to Pollard Road) meets the approval of HMR and the City of Daphne, HMR will not issue a Notice to Proceed until the Contractor has repaired all of the areas agreed upon during previous discussions.

If you have any questions or require any additional information please contact me at 626-2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

A handwritten signature in black ink that reads 'James Hugh Robertson, II'.

James Hugh Robertson, II, P.E.
Project Manager

/blg
D250013429\10.304

10-04-10 P01:40 IN

Engineers • Surveyors • Land Planners

DirectorPW

From: Scott Hutchinson [sah@hmreengineers.com]
Sent: Thursday, October 07, 2010 10:26 AM
To: directorpw@bellsouth.net
Cc: jaye@hmreengineers.com; 'Barbara Garner'
Subject: Whispering Pines Pollard to US98
Richard,

\$26,000
5,000

\$31,000

If we were to continue with the existing construction contract on Whispering Pines, our fee for Construction Surveillance and Construction Contract Management will be \$26,000. We will be glad to perform this as a lump-sum fee. Also, we anticipate that the materials testing firm will charge approximately \$5,000.

Please note that, for comparison purposes, our proposed fee is less than the \$31,000 percent-of-construction fee currently being used by Mobile County under the Pay-As-You-Go program.

As always, I appreciate the opportunity to provide our services.

Scott A. Hutchinson, P.E.



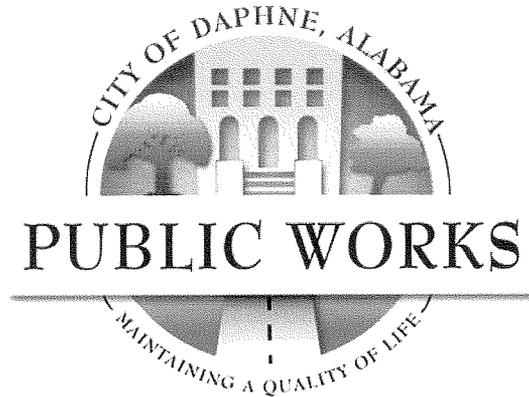
HUTCHINSON, MOORE & RAUCH, LLC
ENGINEERS ♦ SURVEYORS ♦ LAND PLANNERS
P.O. Box 1127 Daphne, AL 36526
Tel: 251.626.2626 Fax: 251.626.6934

Fred Small
Mayor

David Cohen
City Clerk

Kimberly Briley
Finance Director/Treasurer

Richard D. Johnson, P.E.
Director of Public Works



Bailey Yelding, Jr.
District 1

Cathy Barnette
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Kelly D. Reese
District 4

Ronald Scott
District 5

Derek Boulware
District 6

August Palumbo
District 7

Memorandum

To: The Honorable Mayor Fred Small
From: Richard D. Johnson, P.E.; Public Works Director
CC: Councilman Derek Boulware; Chairman, Finance Committee; File
Date: October 7, 2010
Re: FY2011 – Capital Road Improvement Projects – Design Fees



Mr. Mayor:

It is my recommendation to accept and approve the following fees for survey, design, specifications and bidding from the City Engineer, HMR Engineers, Inc., for the following FY2011 Capital Roadway Improvement projects:

A. FY2011 Alternative - Phase I - Bay View Drive (From Hwy 90 to for a total of 1.42 miles including portions of Ridgewood Drive)

With Project Design Fees not to exceed \$110,000.00 (Lump Sum) per the attached Professional Services Agreement letter.

B. FY2011 Alternative - Phase II - Ridgewood Drive (Lawson ½ Mile North & ½ Mile South for a total of 1.0 mile)

In addition as add alternates:

B1. - FY2011 Alternative - Phase II - Ridgewood Drive at Lawson Round-A-Bout (Intersection improvements)

B2. - FY2011 Alternative - Phase II - Lawson Road at CR13 Turn Lane (Intersection Improvements)

With Project Design Fees not to exceed \$132,000.00 (Lump Sum) per the attached Professional Services Agreement letter.

**C. FY2011 - Project 2b - Intersection of Whispering Pines Rd and US Hwy 98
(Additional Turn Lanes and Signalization Upgrade)**

With Project Design Fees not to exceed \$15,000.00 (Lump Sum) per the attached Professional Services Agreement letter.

D. FY2011 – Project 6 - Timber Creek - Main Boulevard Resurfacing (Paving with limited base repair)

Authorize the City Engineer, HMR Engineers, Inc., to execute the limited project design based scope of work required by the Director of Public Works. With Project Design Fees not to exceed \$40,000.00 (Lump Sum) per the attached Professional Services Agreement letter.

Yours,

RDJ

\$ 299,500



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

Telephone: (251) 626-2626
Fax: (251) 626-6934

September 20, 2010

Mr. Richard Johnson, Public Works Director
City of Daphne
Post Office Box 400
Daphne, Alabama 36526

RE: City of Daphne Street Improvements
Fiscal Year 2011
Proposed Design Fees

Dear Mr. Johnson:

Following are our proposed fees for providing the survey, design, specifications and bidding for the five fiscal year 2011 street improvement projects:

- | | | |
|----|---|-----------------------------------|
| 1. | Bay View Drive from Highway 90 (1.42 miles) | \$110,000. (Lump Sum) |
| 2. | Ridgewood Drive
<i>(1/2 mile north and 1/2 mile south of Lawson)</i>
<i>(including Ridgewood/Lawson Intersection and County Road 13/Lawson Turn Lane)</i> | \$132,000. (Lump Sum) |
| 3. | Whispering Pines (Pollard Road to U.S. 98)
If Deductive Alternate is returned to existing contractor
If New Bid Process is initiated | No Charge
\$2,500. (Estimated) |
| 4. | Intersection of US 98 and Whispering Pines | \$15,000. (Lump Sum) |
| 5. | Timber Creek Boulevard (Highway 181 to Highway 31) | \$40,000 (Estimated) |

Please note that the fee for Timber Creek Boulevard (#5) is estimated. If Baldwin County were to participate, our fee would be based upon the plan set they would need to perform the work.

As always, Hutchinson, Moore & Rauch, LLC greatly values our relationship with the City and appreciates the opportunity to provide you with this proposal.

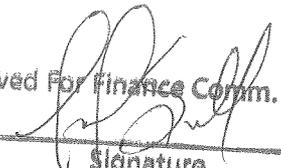
Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC


Scott A. Hutchinson, P.E.

\$ 299,500

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D2500\10.288

Approved For Finance Comm. Agenda


Signature

Date

April 20, 2010

Mr. William H. Eady, Sr., Director
Daphne Public Works Department
26435 Public Works Road
Daphne, Alabama 36526

RE: Sehoj Pipe Repair

Dear Mr. Eady:

Hutchinson, Moore & Rauch, LLC estimates our fees for the design, survey and inspection of the referenced project to be hourly at \$6,000.00.

If you need any additional information, please contact me at 626.2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

Jaye H. Robertson, E.I.

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ENGINEERING COST ESTIMATE

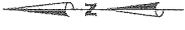
Owner: City of Daphne

Project: Sehoj Drainage Repair - Claiborne Circle

Date: April 30, 2010

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1	CLEARING AND GRUBBING (201-A)	LS	1	\$ 1,500.00	\$ 1,500.00
2	MOBILIZATION (600-A)	LS	1	\$ 4,000.00	\$ 4,000.00
3	REMOVE 42" HDPE	LF	40	\$ 8.00	\$ 320.00
4	REMOVE 48" HDPE	LF	160	\$ 8.00	\$ 1,280.00
5	REMOVE 60" HDPE	LF	20	\$ 12.00	\$ 240.00
6	42" RCP (OWNER SUPPLIED)	LF	40	\$ 40.00	\$ 1,600.00
7	48" RCP	LF	160	\$ 105.00	\$ 16,800.00
8	60" RCP	LF	20	\$ 150.00	\$ 3,000.00
9	RIPRAP, CLASS 2	TONS	80	\$ 75.00	\$ 6,000.00
10	FILTER CLOTH	SY	75	\$ 3.50	\$ 262.50
11	JUNCTION BOX (OWNER SUPPLIED)	EA	1	\$ 800.00	\$ 800.00
12	NEW JUNCTION BOX MODIFICATIONS	LS	1	\$ 500.00	\$ 500.00
13	TOPSOIL (3" THICK)	CY	40	\$ 8.50	\$ 340.00
14	SOLID SOD	SY	350	\$ 5.50	\$ 1,925.00
15	SEEDING (MIX 2A) (652-A)	ACRE	0.2	\$ 2,000.00	\$ 400.00
16	MULCHING	ACRE	0.2	\$ 2,000.00	\$ 400.00
17	SILT FENCE	LF	230	\$ 5.00	\$ 1,150.00
18	REMOVE & RESET TRANSFORMER (RIVIERA)	LS	1	\$ 2,500.00	\$ 2,500.00
19	SELECT BACKFILL	CY	175	\$ 8.00	\$ 1,400.00
20	STRUCTURE BACKFILL	CY	175	\$ 6.00	\$ 1,050.00
21	#57 STONE, BEDDING	CY	21	\$ 30.00	\$ 630.00
22	MODIFY EXISTING JUNCTION BOXES	EA	3	\$ 500.00	\$ 1,500.00
23	MODIFY EXISTING HEADWALL	LS	1	\$ 500.00	\$ 500.00
24	ENGINEERING	LS	1	\$ 6,000.00	\$ 6,000.00
TOTAL AMOUNT					\$ 54,097.50

LEGEND
--- 142 --- EXISTING 5' CONTOURS



NOTES

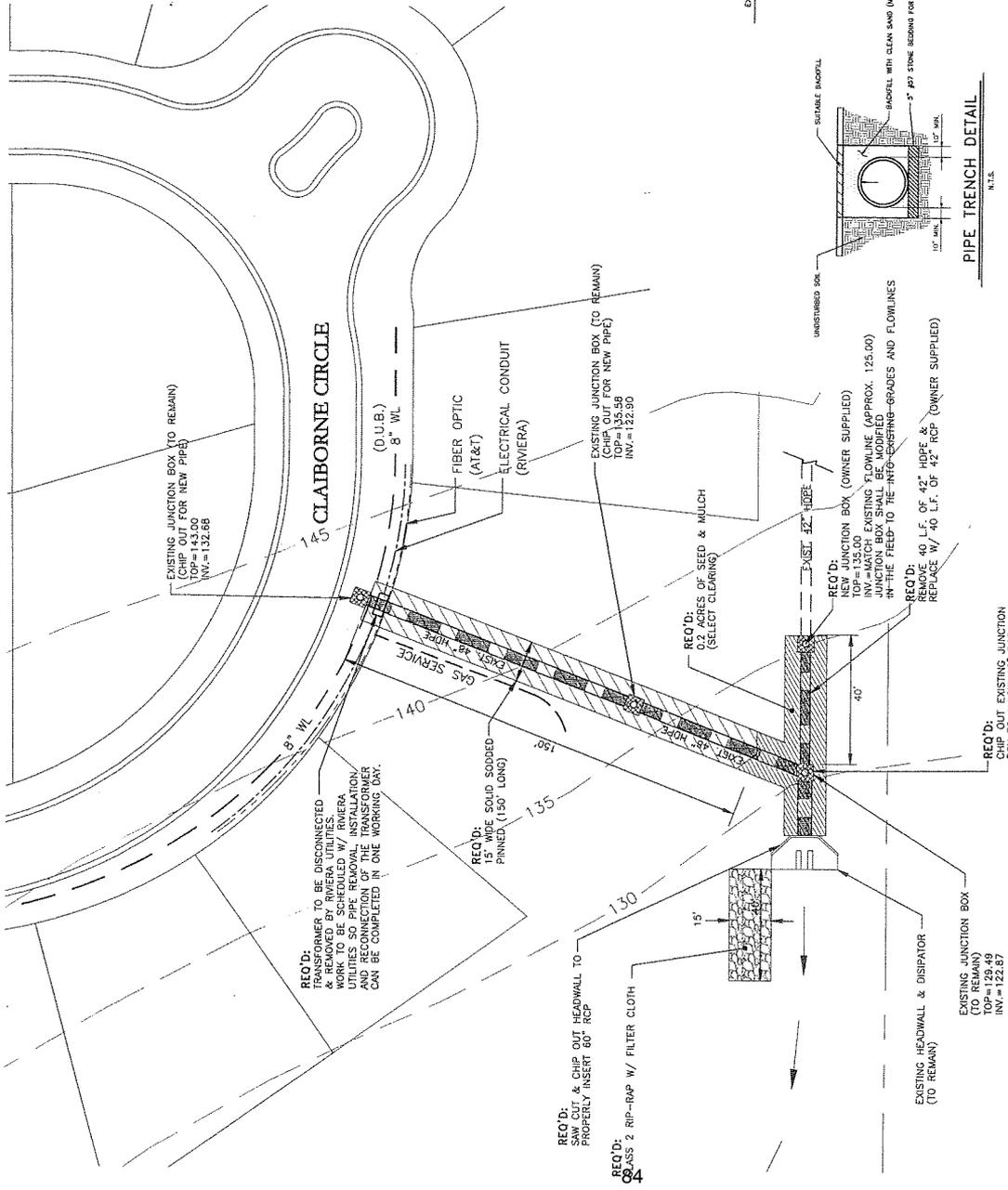
1. DEMONSTRATE WORK AREA AS NECESSARY
2. CONTRACTOR TO INSTURE MINIMUM AREA REQUIRED TO ACCESS AND ACCOMPLISH WORK
3. ENSURE CONTROL TO BE ESTABLISHED AND MAINTAINED IN WORK AREA AND EGRESS
4. CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING AND RE-STABILIZING STAGING PROPERTY AND ALL ACCESSES TO THEIR ORIGINAL STATE OR BETTER PRIOR TO COMPLETION OF THE PROJECT.
5. ALL PIPE WORK MUST BE PERFORMED INSIDE THE EXISTING DRAINAGE CASING. CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PREVENT DAMAGE TO THE ADJACENT HOUSE.

REMOVE

- 150 L.F. OF 48" HDPE
- 40 L.F. OF 42" HDPE
- 20 L.F. OF 60" RCP

INSTALL

- 160 L.F. OF 48" RCP
- 40 L.F. OF 42" RCP
- 20 L.F. OF 60" RCP



HUTCHINSON, MOORE & RAUCH, LLC
ENGINEERS & SURVEYORS
LAND PLANNERS
2039 MAIN STREET
DAPHNE, ALABAMA 36526
TEL (251) 626-2626
FAX (251) 626-6934
daphne@hmrengineers.com

SEHOY DRAINAGE REPAIR
EXISTING CONDITIONS & PROPOSED REPAIRS
CITY OF DAPHNE

SCALE: 1"=50'
DATE: APRIL 2010
DRAWN BY: JAO
CHECKED BY:
SHEET: 2 OF 4

NO.	DATE	REVISION



Daphne Utilities

Rob McElroy, P.E.
General Manager

Board of Directors

Robert Segalla, Chairman
Ron Scott, Vice Chairman
Lon Johnston, Secretary Treasurer
Fred Small, Mayor
Fenton E. Jenkins

September 28, 2010

Ms. Kim Briley
Finance Director
City of Daphne
P.O. Box 400
Daphne, AL 36526

Dear Ms. Kim Briley:

On September 23, 2010 bids were received by the City for the Energy Efficient Blower Retrofit at the Daphne WRF. The City of Daphne submitted on behalf of Daphne Utilities an Energy Efficiency and Conservation Block Grant (EECBG) and was successful in obtaining the \$250,000 grant.

As previously stated, Daphne Utilities will assume all responsibility including costs for the cash match, administering, engineering, and construction of the project beyond the \$250,000 grant amount. We have reviewed the bid tabulation and recommendation of award prepared by Volkert, Inc to award the Contract to Ballcon, Inc. in the amount of \$595,000 and concur with this recommendation.

We appreciate the City working with us on this project and look forward to completing a successful project that will enhance the operation at the WRF. Please let us know if you need anything additional from us at this time.

Sincerely,

Rob McElroy, P.E.
General Manager

c: Mayor Fred Small
Mr. Ron Scott
Ms. Suzanne Henson
Ms. Janey Galbraith
Mr. Danny Lyndall

VOLKERT & ASSOCIATES, INC.

September 28, 2010

Contract No. 408133.10

Energy Efficient Blower Retrofit at the Daphne WRF
Bid Document NO. 2010BB
Grant No. 1AAREECB607

Ms. Kim Briley, Finance Director &
Finance Committee Members
City of Daphne
PO Box 400
Daphne, AL 36526

Dear Ms. Briley & Finance Committee Members:

Enclosed is the Tabulation of Bids received on September 23, 2010 for the referenced project. The following is a summary of the total bid amounts submitted:

<u>Contractor</u>	<u>Total Bid Amount</u>
Ballcon, Inc.	\$595,000.00
The Creel Company, Inc.	\$599,425.00
Rob't. J. Baggett, Inc.	\$655,225.00
Hemphill Construction Company, Inc.	\$677,000.00
Double Diamond Construction Company, Inc.	\$714,870.00
G.A. West & Co., Inc.	\$795,428.00

We have reviewed the proposals and found them to be in order. Ballcon, Inc. submitted the low total bid amount of \$595,000.00. This amount appears to be reasonable for the proposed construction. Therefore, we recommend that Ballcon, Inc. be awarded this contract for the total bid amount of \$595,000.00.

Please call me at your convenience should you have any questions regarding these items.

Sincerely,



Melinda D. Immel, P.E.
Assistant Vice President

Enclosures

- c Mayor Fred Small (w/ Enclosures)
- Mr. Ron Scott (w/ Enclosures)
- Ms. Suzanne Henson (w/ Enclosure & Original Bids)
- Ms. Janey Galbraith (w/ Enclosure)
- Mr. Rob McElroy, PE (w/ Enclosures)
- Mr. Danny Lyndall (w/ Enclosures)
- Ms. Teresa Logiotatos (w/ Enclosure)
- Mr. Jim Caudle (w/ Enclosure)

Office Locations:

Birmingham, Foley, Huntsville, Mobile, Alabama • Gainesville, Orlando, Pensacola, Tampa, Florida • Atlanta, Georgia • Collinsville, Illinois
Baton Rouge, Louisiana • D'Iberville, Mississippi • Jefferson City, Missouri • Raleigh, North Carolina • Chattanooga, Tennessee
Alexandria, Virginia • Washington, D.C.

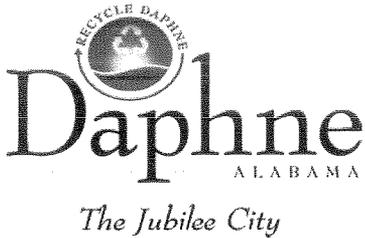
CITY OF DAPHNE, ALABAMA
2011-A-DAPHNE FIRE DEPARTMENT TRAINING FACILITY

October 11, 2010
 11:30AM

Attending: Brian Puckett, WHCL Architects
 Melvin McCarley, PW Superintendent & Volunteer Fire
 Suzanne Henson, Senior Accountant

LOCATION: Daphne City Hall

Bidders	Bid Bond / Check	Addendum No. 1	Base Bid Amount	Base Bid Adjustments	Net Bid Amount	
Vance McCown Construction	Yes	X	686,636.00	(9,649.00)		676,987.00
Langenbach Construction	No	X	812,180.00			812,180.00
Youngblood/Barrett Construction	Yes		600,000.00	91,707.00		691,707.00
JC Duke & Assoc.	Yes	X	726,450.00	(13,410.00)		713,040.00
M.Lacy Contracting	Yes	X	810,000.00			810,000.00
Ladas Construction		X	650,000.00	(21,000.00)		629,000.00
Green & Simmons	Yes/check	X	899,000.00			899,000.00
E-J Builders		X	620,000.00	64,921.00		684,921.00
Beaufort Engineering			698,000.00			698,000.00
Suncoast Construction (Submitted @ 11:32AM)Late						-



RECYCLING PROGRAM 2010-2011

PROGRAM AND BUDGET

ALTERNATIVES

AND OPTIONS

OPTION 1:

Single Stream Mechanized Collection

	Purchase			Lease		
	Qty	Unit \$	Total	Qty	Unit \$	Total
Boom Armed Collection Trucks	2	\$239,514	\$479,028	2	\$55,000	\$110,000
Blue Auto Collection Wheeled Cans	7000	\$50	\$350,000	7000	\$50	\$350,000
Solid Waste Worker Sr. (\$14.83 avg/hr)	3	\$30,846	\$92,539	3	\$30,846	\$92,539
			\$921,567			\$552,539

OPTION 2:

Single Stream Existing Program

	Using Existing Equipment			Purchase New 20yd S.A. Rear Loading Truck			Lease New 20yd S.A. Rear Loading Truck		
	Qty	Unit \$	Total	Qty	Unit \$	Total	Qty	Unit \$	Total
Cost of Collection Trucks *	2	\$35,000	\$70,000	2	\$139,097	\$278,194	2	\$30,709	\$61,418
Solid Waste Worker Sr. (\$14.83 avg/hr)	3	\$30,846	\$92,539	3	\$30,846	\$92,539	3	\$30,846	\$92,539
Solid Waste Worker (\$11.99 avg/hr)	2	\$24,939	\$49,878	2	\$24,939	\$49,878	2	\$24,939	\$49,878
			\$212,418			\$420,612			\$203,836

*Estimated Cost of Yearly Maintenance

OPTION 3:

Curbside Collection & Sort and Post Bundle Sales

	Purchase			Lease		
	Qty	Unit \$	Total	Qty	Unit \$	Total
Recycling Trucks	2	\$179,000	\$358,000	2	\$37,000	\$74,000
Bailing Wire	1	\$3,500	\$3,500	1	\$3,500	\$3,500
Solid Waste Worker Sr. (\$14.83 avg/hr)	3	\$30,846	\$92,539	3	\$30,846	\$92,539
Solid Waste Worker (\$11.99 avg/hr)	7	\$24,939	\$174,574	7	\$24,939	\$174,574
			\$628,614			\$344,614

OPTION 3a:

Curbside Collection & Sort and Post Bundle Sales with Inmate Labor

	Purchase			Lease		
	Qty	Unit \$	Total	Qty	Unit \$	Total
Recycling Trucks	2	\$179,000	\$358,000	2	\$37,000	\$74,000
Bailing Wire	1	\$3,500	\$3,500	1	\$3,500	\$3,500
Solid Waste Worker Sr. (\$14.83 avg/hr)	3	\$30,846	\$92,539	3	\$30,846	\$92,539
Solid Waste Worker (\$11.99 avg/hr)	2	\$24,939	\$49,878	2	\$24,939	\$49,878
Inmate Labor (\$20 avg/day)	5	\$4,980	\$24,900	5	\$4,980	\$24,900
			\$528,818			\$244,818

**General Fund
General Obligation
Debt Service**

I. Existing Debt

	Series 2003		Series 2006		Series 2010		Combined		Total
	Principal	Interest	Principal	Interest	Principal	Interest	Principal	Interest	
9/30/2011	420,000	134,251	1,020,000	916,940	105,000	22,923	1,545,000	1,074,114	2,619,114
9/30/2012	430,000	121,651	1,060,000	876,140	195,000	44,788	1,685,000	1,042,579	2,727,579
9/30/2013	445,000	108,321	1,095,000	837,450	335,000	40,888	1,875,000	986,659	2,861,659
9/30/2014	460,000	94,415	1,140,000	796,388	340,000	34,188	1,940,000	924,990	2,864,990
9/30/2015	475,000	76,015	1,185,000	750,788	345,000	25,688	2,005,000	852,490	2,857,490
9/30/2016	495,000	57,015	1,230,000	703,388	350,000	18,788	2,075,000	779,190	2,854,190
9/30/2017	515,000	39,195	1,280,000	654,188	365,000	10,038	2,160,000	703,420	2,863,420
9/30/2018	530,000	20,140	1,130,000	602,988	-	-	1,660,000	623,128	2,283,128
9/30/2019	-	-	1,180,000	554,963	-	-	1,180,000	554,963	1,734,963
9/30/2020	-	-	910,000	504,813	-	-	910,000	504,813	1,414,813
9/30/2021	-	-	950,000	466,138	-	-	950,000	466,138	1,416,138
9/30/2022	-	-	990,000	424,575	-	-	990,000	424,575	1,414,575
9/30/2023	-	-	1,035,000	380,025	-	-	1,035,000	380,025	1,415,025
9/30/2024	-	-	1,085,000	328,275	-	-	1,085,000	328,275	1,413,275
9/30/2025	-	-	1,135,000	279,450	-	-	1,135,000	279,450	1,414,450
9/30/2026	-	-	1,185,000	228,375	-	-	1,185,000	228,375	1,413,375
9/30/2027	-	-	1,240,000	175,050	-	-	1,240,000	175,050	1,415,050
9/30/2028	-	-	1,295,000	119,250	-	-	1,295,000	119,250	1,414,250
9/30/2029	-	-	1,355,000	60,975	-	-	1,355,000	60,975	1,415,975
	3,770,000	651,004	21,500,000	9,660,155	2,035,000	197,298	27,305,000	10,508,457	37,813,457

II. Proposed Refunded Debt & 3,500,000 New Money

	Series 2003	Series 2006	Series 2010	Total Refunded Debt Svc	New Money Debt Svc	Combined Debt Svc
9/30/2011	543,035	1,936,940	127,923	2,607,898	315,582	2,923,480
9/30/2012	541,634	1,936,140	239,788	2,717,562	303,753	3,021,315
9/30/2013	542,972	1,932,450	375,888	2,851,309	301,568	3,152,877
9/30/2014	543,677	1,936,388	374,188	2,854,252	294,015	3,148,267
9/30/2015	542,094	1,935,788	370,688	2,848,569	305,978	3,154,546
9/30/2016	538,894	1,933,388	368,788	2,841,069	301,970	3,143,038
9/30/2017	544,198	1,934,188	375,038	2,853,423	302,266	3,155,688
9/30/2018	537,758	1,732,988	-	2,270,745	306,753	2,577,498
9/30/2019	-	1,734,963	-	1,734,963	845,378	2,580,341
9/30/2020	-	1,414,813	-	1,414,813	843,698	2,258,511
9/30/2021	-	1,416,138	-	1,416,138	-	1,416,138
9/30/2022	-	1,414,575	-	1,414,575	-	1,414,575
9/30/2023	-	1,415,025	-	1,415,025	-	1,415,025
9/30/2024	-	1,413,275	-	1,413,275	-	1,413,275
9/30/2025	-	1,414,450	-	1,414,450	-	1,414,450
9/30/2026	-	1,413,375	-	1,413,375	-	1,413,375
9/30/2027	-	1,415,050	-	1,415,050	-	1,415,050
9/30/2028	-	1,414,250	-	1,414,250	-	1,414,250
9/30/2029	-	1,415,975	-	1,415,975	-	1,415,975
	4,334,260	31,160,155	2,232,298	37,726,713	4,120,960	41,847,672

III. Discussion of Refunding 2002 Warrants

The most significant savings (302,339) in the proposed refunding is in the 2002 Warrants.

However, the 2002 Warrants Debt Service is paid from Lodging Tax collections, as this debt was issued for the acquisition of beach front property.

Therefore, refunded "savings" realized on this issue could not be used to offset the debt service of "new" money for paving as debt service on paving projects would be paid out of the General Fund.

Annual Lodging Tax collections have increased since 2002 projections. The refunding of the 2002 warrants could be used to restructure the debt service to allow for an earlier pay-off of the debt and therefore "save" even more interest. (Current maturity is 2032)

IV. Refunded General Fund Savings

86,744

This amount would not be sufficient to support the issuance of any new debt. As presented, the annual new debt service would be an additional 300,000 annually for the first 8 years and then subsequent to that, for 2 years, the debt service would increase 840,000 annually.

With General Fund constraints currently being experienced due to the down-turn in the economy, the City presently would not be able to justify to the rating agencies its ability to issue any more new debt and meet the additional debt service requirements of such new debt.

General Obligation Debt Issued

		<u>Issue Amt</u>	<u>Original Maturity</u>
1989 Warrants	Drainage, Resurfacing, Justice Center, Fire St #2, Eqpt	8,000,000	2/15/2010
1992 Warrants	Property (later to be Civic Center/Rec Facility)	2,030,000	6/1/2002
1993 Warrants	Refunded 1989 Warrants	4,600,000	2/15/2009
1995 Warrants	Library, Sports Complex, Road extensions	3,915,000	4/1/2012
1997 Warrants	Refunded 1989 and 1992, Civic Center, Drainage	10,445,000	4/1/2017
1999 Warrants	Sewer, complete Civic Center	6,305,000	4/1/2029
2002 Warrants*	Bay Front Property	2,660,000	2/1/2032
2003 Warrants*	Refund 1993 & 1995	6,455,000	8/1/2018
2006 Warrants*	City Hall, US 90 Sewer, Library, Rec Property; Refund 1997 & 1999	25,230,000	4/1/2025
2010 Warrants*	Refund 1997	2,035,000	4/1/2017

*Outstanding

SURPLUS EQUIPMENT SUMMARY - FY10
(Equipment sold online through Govdeals.com)

2010 Surplus Minutes - October 2009	\$	25,581.12
2010 Surplus Minutes - May 2010	\$	18,954.15
2010 Surplus Minutes - August 2010	\$	11,202.67
2010 Surplus Minutes - September 2010	\$	1,498.49
	\$	57,236.43

TREASURER'S REPORT

As of September 30, 2010

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
GENERAL FUND & ENTERPRISE FUNDS		
MMA ACCT	COMPASS	\$13,601,579.18
OPERATING ACCT	COMPASS	(\$765,373.54)
PAYROLL ACCT	COMPASS	(\$191,383.16)
		<u>\$12,644,822.48</u>
AGENCY FUNDS		
MUNICIPAL COURT	COMPASS	\$307,778.53
SPECIAL REVENUE FUNDS		
SAIL SITE	RBC BANK	\$4,888.33
4 CENT GAS TAX	RBC BANK	\$304,326.43
7 CENT GAS TAX	RBC BANK	\$284,272.77
		<u>\$593,487.53</u>
CAPITAL PROJECT FUNDS		
CAPITAL RESERVE	WACHOVIA	\$3,038,671.61
2006 CONSTRUCTION	WACHOVIA	\$894,448.74
		<u>\$3,933,120.35</u>
DEBT SERVICE FUNDS		
DEBT SERVICE	WACHOVIA	\$1,250,769.71
2006 DEBT SERVICE	RBC BANK	\$806,294.63
		<u>\$2,057,064.34</u>
		<u>\$19,536,273.23</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

FY 2010 BUDGET/ACTUAL COMPARISONS

	2003	2004	2005	2006	2007	2008	2009	2010	Actual - 2010	Budget	Monthly Variance	YTD Variance	% of Budget
October	636,482.64	697,830.58	833,700.71	932,634.66	944,542.36	867,190.18	806,503.85	764,641.13	764,641.13	752,167	12,473.91	12,473.91	1.66%
November	646,534.10	710,788.74	814,666.03	901,512.38	918,837.95	915,890.97	801,075.91	761,955.37	761,955.37	755,932	6,023.04	18,496.95	0.80%
December	892,208.68	941,151.87	1,091,073.78	1,168,443.68	1,182,584.39	1,120,005.09	1,078,330.45	1,004,037.20	1,004,037.20	1,009,741	(5,703.96)	12,792.99	-0.56%
January	590,727.65	697,083.68	771,837.83	887,468.11	914,876.33	822,020.87	755,541.41	723,504.28	723,504.28	726,313	(2,808.27)	9,984.72	-0.39%
February	632,654.31	688,421.54	788,825.08	878,123.66	877,975.60	865,625.83	748,620.87	733,335.60	733,335.60	718,521	14,814.39	24,799.11	2.06%
March	705,390.20	848,156.86	917,832.17	1,081,774.83	1,071,598.38	998,616.04	863,535.78	916,657.55	916,657.55	855,846	60,811.23	85,610.34	7.11%
April	692,148.44	752,039.55	863,144.81	968,760.72	960,140.54	963,691.85	823,173.33	809,588.73	809,588.73	787,606	21,982.29	107,592.63	2.79%
May	702,692.15	757,610.49	867,446.44	1,000,424.48	1,021,498.14	957,167.20	829,099.81	862,254.54	862,254.54	793,355	68,899.39	176,492.02	8.68%
June	752,668.04	818,209.20	982,863.46	1,024,091.07	1,066,433.92	997,274.15	868,309.52	887,262.68	887,262.68	846,847	40,416.16	216,908.18	4.77%
July	721,790.90	803,051.14	908,576.13	941,407.68	993,216.66	888,690.34	808,113.93	839,192.33	839,192.33	831,158	8,034.40	224,942.58	0.97%
August	739,993.63	745,320.33	869,818.11	950,539.01	954,421.57	964,626.26	831,984.35	790,713.80	790,713.80	771,407	19,307.26	244,249.84	2.50%
September	715,641.36	830,260.80	998,476.08	967,616.16	965,107.35	918,551.15	825,257.74	-	790,713.80	859,320	-	-	-
Totals	8,428,932.10	9,289,924.78	10,708,260.63	11,702,796.44	11,871,233.19	11,279,349.93	10,039,546.95	9,093,143.21	9,093,143.21	9,708,213	244,249.84	244,249.84	-10.99%

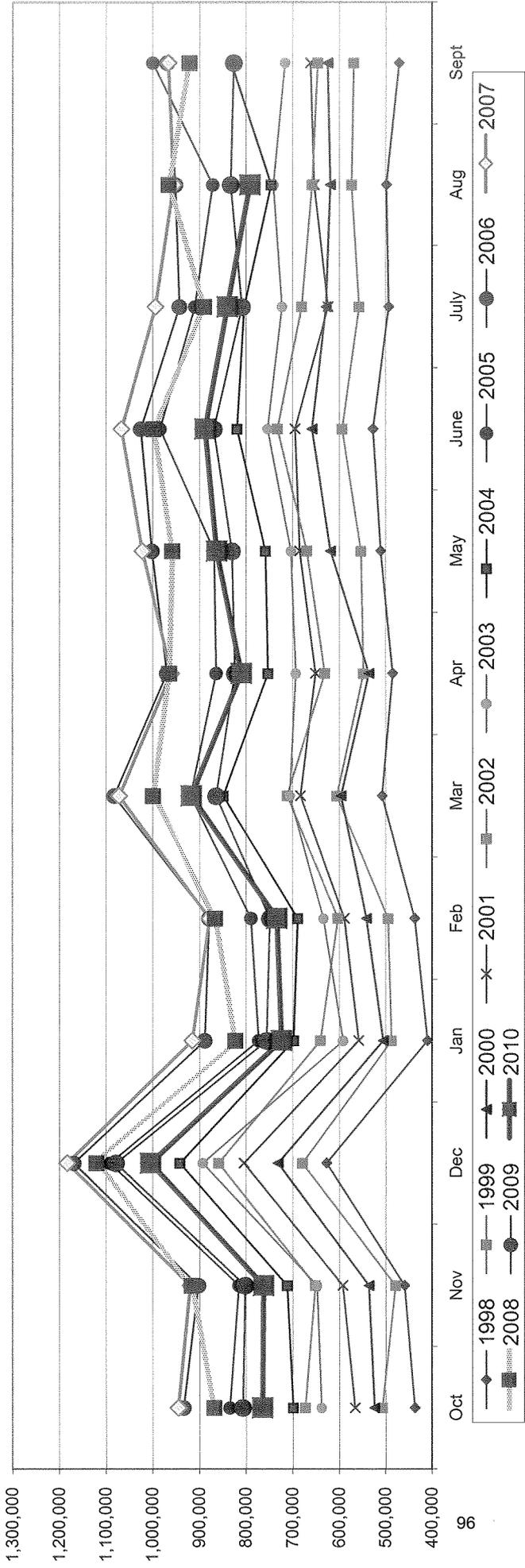
FISCAL YEAR COMPARISONS

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
October	61,347.94	135,870.13	98,933.95	11,907.70	(77,352.18)	(60,686.33)	(41,862.72)	9.64%	19.47%	11.87%	1.28%	-8.19%	-7.00%	-5.19%
November	64,254.64	103,877.29	86,846.35	17,325.57	(2,946.98)	(114,815.06)	(39,120.54)	9.94%	14.61%	10.66%	1.92%	-0.32%	-12.54%	-4.88%
December	48,943.19	149,921.91	77,369.90	14,140.71	(62,579.30)	(41,674.54)	(74,293.25)	5.49%	15.93%	7.09%	1.21%	-5.29%	-3.72%	-6.89%
January	106,356.03	74,754.15	115,630.28	27,408.22	(92,855.46)	(66,479.46)	(32,037.13)	18.00%	10.72%	14.98%	3.09%	-10.15%	-8.09%	-4.24%
February	55,767.23	100,403.54	89,298.58	(148.06)	(12,349.77)	(117,004.96)	(15,285.27)	8.81%	14.58%	11.32%	-0.02%	-1.41%	-13.52%	-2.04%
March	142,766.66	69,675.31	163,942.66	(10,176.45)	(72,982.34)	(135,080.26)	53,121.77	20.24%	8.21%	17.86%	-0.94%	-6.81%	-13.53%	6.15%
April	59,891.11	111,105.26	105,615.91	(8,620.18)	3,551.31	(140,518.52)	(13,584.60)	8.65%	14.77%	12.24%	-0.89%	0.37%	-14.58%	-1.65%
May	54,918.34	109,835.95	132,978.04	21,073.66	(64,330.94)	(128,067.39)	33,154.73	7.82%	14.50%	15.35%	2.11%	-6.30%	-13.38%	4.00%
June	65,541.16	164,654.26	41,227.61	42,342.85	(69,159.77)	(128,964.83)	18,953.16	8.71%	20.12%	4.19%	4.13%	-6.49%	-12.93%	2.18%
July	81,260.24	105,524.99	32,831.55	51,808.98	(104,526.32)	(80,576.41)	31,078.40	11.26%	13.14%	3.61%	5.50%	-10.52%	-9.07%	3.85%
August	5,326.70	124,497.78	80,720.90	3,882.56	10,204.69	(132,641.91)	(41,270.55)	0.72%	16.70%	9.28%	0.41%	1.07%	-13.75%	-4.96%
September	114,619.44	168,215.28	(30,859.92)	(2,508.81)	(46,556.20)	(93,293.41)	-	16.02%	20.26%	-3.09%	-0.26%	-4.82%	-10.16%	-
Annual \$ Change	860,992.68	1,418,335.85	994,535.81	168,436.75	(591,883.26)	(1,239,802.98)	(121,146.00)	10.21%	15.27%	9.29%	1.44%	-4.99%	-10.99%	-

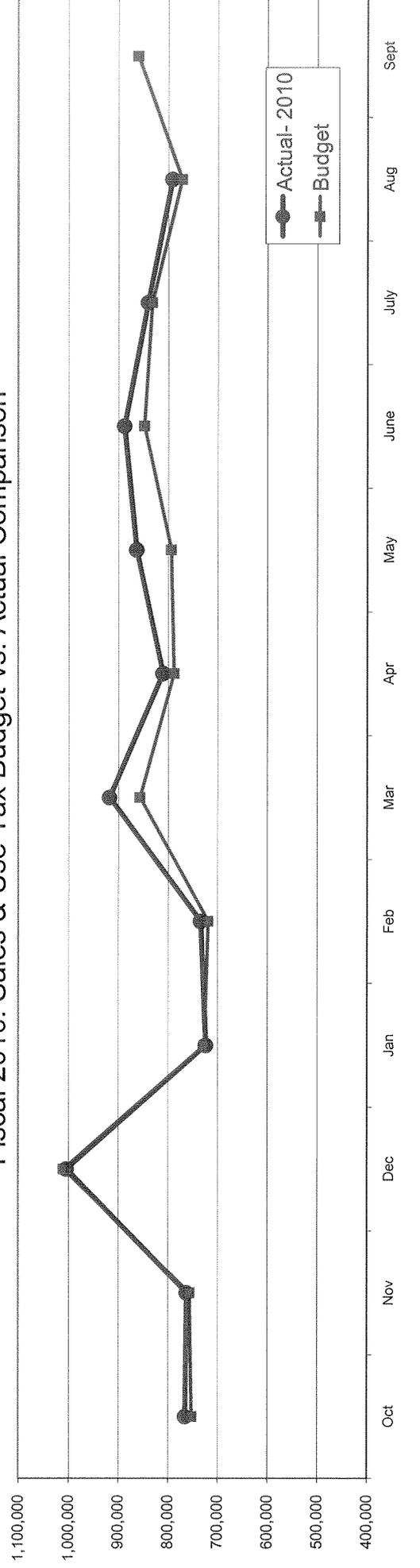
TOTAL collections: FY 09	10,039,547
TOTAL est. bdgt coll: FY 10	9,708,213
Budgeted Dollar Variance 08/09	(331,334)
Budgeted Percent Variance 08/09	-3.30%

TOTAL collections: 8-31-10	9,093,143
Budgeted: 10-1-09 to 8-31-10	8,848,693
Actual Coll: (<) Budget, 8-31-10	244,250
% Over/(Under) Budget, 8-31-10	2.76%

Sales & Use Tax Comparisons



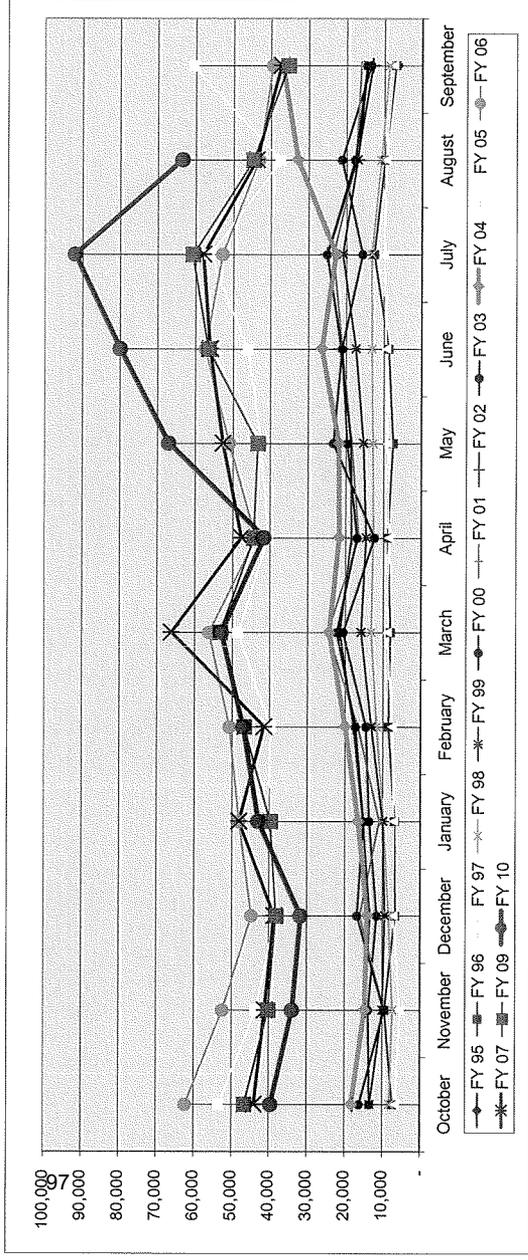
Fiscal 2010: Sales & Use Tax Budget vs. Actual Comparison



Monthly Lodging Tax Collections

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10
October	6,371.27	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	601,302.68	573,770.96	591,147.09	549,255.30	590,798.75
November	7,228.60	6,701.69	8,042.55	13,241.96	13,344.97	16,021.98	17,757.16	17,757.16	16,103.81	18,110.90	53,490.95	62,191.49	43,874.01	46,360.47	46,543.20	39,405.56
December	9,371.57	5,419.99	7,156.30	9,963.87	9,378.73	14,346.00	14,346.00	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84	40,178.69	33,763.37
January	6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14	38,144.69	31,571.38
February	6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80	39,706.04	42,883.70
March	8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,680.30	17,174.37	19,962.91	39,797.68	50,684.11	41,381.78	47,340.33	46,699.01	46,998.32
April	8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	21,371.61	22,248.25	24,206.01	48,474.92	56,076.62	66,060.49	53,123.15	53,230.85	52,771.52
May	8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02	44,277.75	41,531.05
June	7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	19,610.83	21,785.09	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12	43,293.74	66,820.96
July	8,672.68	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19	56,494.11	79,822.84
August	12,568.56	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23	60,619.78	91,906.47
September	9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89	44,636.82	63,323.58
Total	6,371.27	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	601,302.68	573,770.96	591,147.09	549,255.30	590,798.75

Ordinance 1997-28 adopted December 8, 1997 increased levy from 3% to 4%.



FY 2010 Budget	545,000
% Budget Collected, 8/31/2010	108%

NEW BUSINESSES

September-10

CITY LIMITS		CONTRACTORS	
RETAILERS		SLAUGHTER CONSTRUCTION	1
SHEAR ART	1	TR'S GENERAL SERVICES	1
MATERIAL GIRL	1	DIAMOND M ELECTRIC, LLC	1
ALL OTHER		UST SPECIALISTS	1
RI-MED INC - DAPHNE LOCATION	1	MITCHELL'S HEAT & AIR	1
BAY DVD	1	D & D CONTRACTORS	1
SMITH PAYNE, INC	1	GUARDIAN SERVICES	1
CALI'S FINEST TATTOO'S, INC	1	FACTORY DIRECT SUN	1
SEAN T KENNEDY	1	EAST BAY POOLS	1
SILLI LILLI	1	ROBERT MCKINNON	1
DONNA T. HORNSBY, LLC	1	BENEDICT PAINT & WALLCOVERING	1
GLAMOROUS DESIGNS	1	GUS DELAFUENTE	1
LITTLE CAESERS #1700	1	COCKER ELECTRIC	1
TOTAL CITY LIMITS	11	FULCRUM CONSTRUCTION, LLC	1
OUTSIDE CITY LIMITS		BRIGHTS GULF COAST PAVING	1
CUTTING EDGE PRODUCTS, LLC	1	DAMON MIDDLETON CONSTRUCTION	1
JAMES E CASE & ASSOCIATES	1	XPRESS SERVICES	1
SMCC - EASTERN SHORE	1	GATOR BORING & TRENCHING, INC	1
TECHNICAL RESOURCE GROUP, INC	1	TOTAL CONTRACTORS	18
PROFESSIONAL COMMUNICATIONS SYSTEMS	1	INSURANCE	
PITMAN CO	1	ACCIDENT INSURANCE COMPANY	1
DEVORE AND JOHNSON	1	AMFIRST INSURANCE CO	1
AMBROSE GREEN	1	AMGUARD INSURANCE CO	1
PROVIDENTIAL FABRICATORS, INC	1	FLORIDA HOSPITALITY MUTUAL INC	1
REDDY ICE	1	NORGUARD INSURANCE CO	1
RELIABLE EQUIPMENT & SERVICE	1	NORTH CAROLINA MUTUAL LIFE INS CC	1
SHORELINE POWER EQUIPMENT	1	OHIO INDEMNITY CO	1
SPECTRA CONTRACT FLOORING	1	RENAISSANCE LIFE AND HEALTH INS CI	1
NEW ALENCO WINDOW	1	RIVERPORT INSURANCE CO	1
BOSTON BEER CORPORATION	1	SURETEC INSURANCE CO	1
TOTAL OUTSIDE CITY LIMITS	15	TRUSTMARK LIFE INSURANCE	1
		VISION SERVICE PLAN INSURANCE	1
		TOTAL INSURANCE	12
		TOTAL NEW BUSINESSES	56

Buildings & Property Committee Meeting
Tuesday, October 4, 2010 5:00 PM
Daphne City Hall

Committee

Councilman John Lake
Councilman August A. Palumbo
Mayor Fred Small
Richard Merchant, Building Inspector
Frank Barnett, Maintenance Supervisor
Margaret Thigpen, Civic Center Director

Committee Minutes (Summary)

Present: Councilman John Lake, Councilman Gus Palumbo, Councilman Bailey Yelding, Mayor Fred Small, David McKelroy, Recreation & Parks Director, Richard Johnson, Public Works Director, Frank Barnett, Maintenance Supervisor, Margaret Thigpen, Civic Center Director, Jane Robbins, Richard Merchant, Building Inspection, Selena Vaughn, Mickey Boykin

Meeting began around 5:00 pm.

Minutes from August Meeting: Motion made to approve minutes from September Meeting. Approved.

Civic Center Report – Margaret Thigpen reported on the following items:

Civic Center:

Green Room revamping complete – used existing materials for floor, etc. and now waiting on just a couple piece of furniture.

Donated Painting unveiling – October 19th at 2:00 pm w/reception to follow.

Ballroom dance – November 5 – selling tickets now

Location Changes – moving sales upstairs and taking back meeting space for rental
Staff Changes – Deni Biggs is retiring. Helen Burdette has moved into that position.

Heather Leggett will be moving with her family at end of month which will leave two sales assistant positions open. Margaret would like to combine the two positions and hire a seasoned salesperson familiar with the industry and perhaps has a client base to draw upon.

HVAC upgrade begins soon – roof over north gallery caved in this weekend.

Civic Center numbers are down from same time as last year. The Church of His Presence has moved for the most part to Mobile – They are drawing more numbers that we can facilitate.

Bayfront:

Numbers are up from 2009 – same time.
Sub floor being worked on.
Decking has been weatherized and working on railing.

Advertising:

\$5000 spent on advertising on AL.com, Zalea Magazine that is part of the Press Register, Bay Weekend supplement and the Lagnappe Newspaper. BP dollars were used for this promotion of facilities in Daphne.

John Lake asked about the idea of getting BP to sponsor Zydeco this next year. He also asked that in the future when we surplus certain items at Civic Center – please let council know. He had told people that we provide plates, etc. for events. Note: This is referencing when we got rid of several hundred place settings of dinnerware that had not been rented since 2007 and only 3 times since 2005.

Margaret continues to work with hotels to build that relationship.

Building Department Report – Richard Merchant distributed monthly reports and impact fees were discussed.

Frank Barnett reported he had been asked to get an estimate on getting lightening protection fro Jackson Oak tree. We would first need to get specs drawn up to then submit to companies for bid of the lightening rods. Selena Vaughn has spoken to the Forestry commission at length about this. The rods could cost approximately \$2400 or more which is likely. Motion made to move forward with having specs drawn up for \$150. David McKelroy said his budget could take care of this expense.

He also reported the gates at Village Point are installed and access cards are being distributed. We have to provide cards to homeowners of Harbor Place as well.

Civic Center Sign – Richard Johnson inquired about the status of the electronic sign – is it ready to go out for bids. It will soon.

Park City Bathrooms – Bailey asked about the status of the bathrooms - \$45,000 is allocated for this project.

Meeting adjourned at 5:35 p.m.

Ordinance Committee

Wednesday, October 13, 2010

City Hall Council Chambers

5:30 p.m.

Councilman Kelly Reese

Councilman Gus Palumbo

Councilman Derek Boulware

I. CALL TO ORDER/MEMBERS PRESENT

Members Present: Kelly Reese, Gus Palumbo, and Derek Boulware

Others Present: David Cohen, Danny Bell, Scott Taylor, and Eric Bussey

II. PUBLIC PARTICIPATION

None

III. ORDINANCE REVIEW/DISCUSSION

a. Texting Cell Phone Ordinance

The ordinance committee discussed various other city ordinances and decided that the Huntsville ordinance would offer the best model.

**Motion by Mr. Reese Seconded by Mr. Boulware To use the City of
Huntsville Ordinance as a model and place on Monday night’s council meeting as a first
read.**

ALL IN FAVOR NONE APPOSED MOTION CARRIED

b. Weed Ordinance

The ordinance committee discussed the existing ordinance with a 12 inch requirement on yard vegetation. The committee decided that the prevailing ordinance would be sufficient if properly enforced.

IV. OTHER BUSINESS

None

V. ADJOURN

Motion by Mr. Reese Seconded by Mr. Boulware To adjourn at 6:21 P.M.

ALL IN FAVOR NONE APPOSED MOTION CARRIED

**CITY COUNCIL MEETING
REPORTS OF SPECIAL COMMITTEES**

NOTES:

BOARD OF ZONING ADJUSTMENTS REPORT:

DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:

INDUSTRIAL DEVELOPMENT BOARD:

LIBRARY BOARD:

PLANNING COMMISSION REPORT:

RECREATION BOARD REPORT:

UTILITY BOARD REPORT:

SET A PUBLIC HEARING DATE

NOVEMBER 15, 2010

TO CONSIDER:

1. Amending the Land Use Ordinance / Table of Permitted Uses and Conditions / For the designation of a convenience store by right in a B-1, Local Business District, as a use allowed upon Planning Commission approval
2. Amending Land Use Ordinance / Table of Permitted Uses and Conditions / Add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business District

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 29, 2010

MEMORANDUM

At the Thursday, August 26, 2010 regular meeting of the City of Daphne Planning Commission, seven members were present and the motion carried unanimously to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses for the designation of a convenience store by right in a B-1, Local Business, zoning district as a use allowed upon Planning Commission approval.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Diehl: To address Mr. Chason's questions and/or comments at the work session regarding the additional runoff directed into the lake from the development of this site, we have provided a letter from the developer of the subdivision which is the responsible party for the detention pond. A copy of this letter has been provided to you. I will be happy to answer any other questions you may have.

Vice Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Ms. Barnette and **Seconded** by Mayor Small *to approve the site plan for the 2nd Office Building on Lot A-2, Bellaton Subdivision, Phase Two. The Motion carried unanimously.*

The next order of business under petitions is annexation review for Richard S. Higbee.

PETITIONS:

ANNEXATION REVIEW:

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services. Mr. Chairman, this is a petition for annexation for twenty acres and later on the agenda there is a subdivision application that goes along with it. The owner is presenting a requesting annexation of a nineteen-point eight-eight acre parcel into the City of Daphne located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning. The subject property is currently zoned RSF-2, Residential Single Family District, Baldwin County District 15. This property is bordered by a Mercy Medical facility to the east, residential to the west, a school to the south, and the proposed location of a church to the north. We reviewed the Comprehensive Plan for the City of Daphne, and the future use map shows this property as commercial development. Based on the comments made by the Planning Commission members at the work session, we have made some minor changes to the zoning plan by eliminating the request for a B-2, General Business, zoning districts. The annexation request will consist of the request for B-1, Local Business. The residential development and the proposed location of the church to the north will be buffered by the B-3, Professional Business, zone.

Vice Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: What are the proposed uses for this property?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Diehl: The area in which we have asked for a B-1, Local Business, zone will be businesses which provide services to the surrounding neighborhood and to the school such as a dry cleaner or a sandwich shop. The B-3, Professional Business, zoning district use speaks for itself.

Ms. Barnette: In the revision to the Daphne Land Use and Development Ordinance, the method in which an annexation is achieved will be different. The petition for annexation will be filed initially requesting R-1, Low Density Single Family Residential. The applicant would have to apply for rezoning of the property to business which will give the Planning Commission more time to review the plan and requested use for the property.

Ms. Phelps: On the corner lot, lot 7, the City of Daphne has plans for this corner. There should be an inset there.

Mayor Small: That is already done. The City is ready to build it. What will be the size of the buffer left between the residential and the B-3 zoning?

Mr. Diehl: It will be ten feet which is referenced in your Ordinance. When we get into the discussion of the B-3 portion of this development, we can revisit that.

Vice Chairman: Do we allow public participation on an annexation request?

Ms. Dickson: It does not require public participation, but the Chairman may allow it.

Vice Chairman: Do any of the Commissioners have any questions or comments? The Vice Chairman opened the floor to public participation.

Several adjacent property owners addressed the Commission to express their concerns regarding the proposed development and how it would impact their property. The main concerns were whether or not the owner/developer proposes to construct a convenience and/or filling station on the property; consideration of a connection with sidewalks from the middle school to the high school or County Road 13/Whispering Pines Road to County Road 13/Lawson Road, for children to travel on to and from the residential areas; to consider the development of the property as a whole when designing access to the property, landscaping and maintenance in order to enhance the neighborhood and to control light and noise pollution; the development of a central location for detention in order to control the storm water drainage directed onto the residential subdivisions to the west; the development of a convenience store near a school zone is an attractive nuisance which is not conducive to the character of the neighborhood and creates problems for the students.

Vice Chairman: If there are no further comments, the Chair will close public participation. Do any of the Commissioners have any questions or comments?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette: Ms. Jones, I guess I need a clarification of the difference or definition of convenience store verses a service/filling station.

Ms. Jones: In the Daphne Land Use Ordinance under Article VIII, Definition of Terms, Section 8-2, Words and Terms Defined, the definitions are as follows: " Convenience Store - any retail store of the 7-11, Circle K, or Jr. Food Store variety providing self-service food, drink, tobacco, automobile fuel and other products for carry-out consumption, but not including bays, other than drive-through car washes, for automobile service or repair. Service Station, Automobile - any building or land used for retail sale and dispensing of automobile fuels or oils; may furnish supplies, equipment and minor services to private passenger vehicles incidental to sale and dispensing of automobile fuels and oils".

Ms. Phelps: Why aren't you bringing in this property as R-1?

Ms. Barnette: Because now the Ordinance allows you to specify the zoning you are requesting.

Mayor Small: Do you have another zoning plan which shows a sketch for a service road?

Mr. Diehl: No sir.

Ms. Jones: The application for the annexation is following past procedures that have been established.

Mr. Gibson: The proposed zoning plan shows only two lots. Is this meant for one business to be located on each lot or for the development of multiple lots?

Mr. Diehl: The property could be developed as either one lot or multiple lots, but a service road is not proposed on the property.

Ms. Jones: The exhibit shown on display is provided for the purpose of a representation of the zoning designations being requested by the owner of the property and not a representation of a lot layout.

Mr. Gibson: Will you keep the location of the pond or will it be redesigned to accept storm water?

Mr. Diehl: This is a grady pond located on the property. At the time of the development of the property, a drainage plan for the storm water design will be provided.

Ms. Phelps: At the time of the development of the property will a six-foot wide sidewalk be constructed?

Mr. Diehl: The construction of the sidewalk will be the responsible of the developer.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF AUGUST 26, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette: I misunderstood the uses for B-1, Local Business, provided for in the Table of Permitted Uses. I did not fully understand the distinction between a convenience store and a gas/filling station. If a parcel were annexed into the City of Daphne with an R-1 designation and the property rezoned, it would allow us time to review the Table of Permitted Uses for the zoning being requested.

Mayor Small: Do you think your client would consider changing his application?

Mr. Diehl: The owner is not here for me to ask, but I do not think so.

Mayor Small: Can you put a note on the plat restricting that use?

Ms. Barnette: That would be considered contract zoning.

Mr. Richard S. Higbee, the owner and the petitioner for the annexation into the City of Daphne, arrived at 6:54 p.m.

Mr. Diehl: The owner of the property is here now and has offered to restrict the use to address your concerns. We will be requesting preliminary/final plat review later on in the meeting so you can ask that we add a note to the plat also.

Vice Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Ms. Barnette and **Seconded** by Mayor Small *for the affirmative recommendation by the Planning Commission to the City Council of Daphne to amend Article XXXV, the Table of Permitted Uses in the Daphne Land Use and Development Ordinance, under convenience store to modify the designation listed for B-1, Local Business, to a P, requiring Planning Commission approval, rather than an R, by right. The Motion carried unanimously.*

A Motion was made by Ms. Barnette and **Seconded** by Mr. Lemoine *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation review for Richard S. Higbee located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning.*

An Amended Motion was made by Ms. Barnette and **Seconded** by Mr. Lemoine *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation review for Richard S. Higbee located northwest of the intersection of Whispering Pines Road and County Road 13 with B-1, Local Business, and B-3, Professional Business, zoning. The petitioner/owner of the property has agreed to restrict the uses on the proposed B-1, Local Business, zoning designation to not allow the construction of a convenience store. The Motion carried. Mr. Chason abstained.*

ARTICLE XXXV TABLE OF PERMITTED USES AND CONDITIONS	USE DISTRICT								
	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Contractor's storage yard for vehicles, equipment, materials and supplies; need not be enclosed within a structure, but must be enclosed within a solid fence to screen view; chain link or similar open fence may be permitted if a screen planting adequate to obstruct the view is provided							R		R
Convenience Store						P	R		
Correctional, detention or penal institution							S		S
Dairy equipment sales							R		R
Dairy products sales						R	R		
Delicatessen						R	R		
Department store							R		
Dog pound; need not be enclosed within a structure							P		R
Drive-in restaurant						P	R		
Drug Store						R	R		
Dry cleaning shop, including self-service						R	R		
Dry goods or fabric store						R	R		
Dwelling, one-family	R	R	R	R					
Dwelling, two-family				R					
Dwelling, multi-family				R					
Electric power generating plant							S		S
Electric power substation; need not be enclosed within a structure, but must be secured by a chain link or similar fence, or raised above ground so as to be inaccessible to unauthorized persons; requires visual screen in most districts	P	P	P	P	P	P	P	P	P
Electric repair shop							R		R
Electric Supply Store							R		R
Elevator maintenance service							R		R

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-__**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on August 26, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after such consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of said amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance; and,

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on November 1, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission, deemed that said amendment to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows:

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended to permit "Convenience Store" as a defined Use allowed by right in Use District B-2 and by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments:

ARTICLE XXXV TABLE OF PERMITTED USES AND CONDITIONS	USE DISTRICT								
	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Convenience Store						P	R		

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the "Convenience Store" designation.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION IV: EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and after publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2010.

THE CITY OF DAPHNE,

AN ALABAMA MUNICIPAL CORPORATION

AUGUST A. PALUMBO, COUNCIL PRESIDENT

FRED SMALL, MAYOR

ATTEST:

**DAVID L. COHEN,
CITY CLERK, MMC**

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 28, 2010

MEMORANDUM

At the Thursday, September 23, 2010 regular meeting of the City of Daphne Planning Commission, six members were present and the motion failed to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses to add a bowling alley as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district. Four members voted in the affirmative, one dissented, and one abstained. Although the majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

RESTER AND COLEMAN ENGINEERS, INC.
CONSULTING ENGINEERS - LAND SURVEYORS
66 MIDTOWN PARK WEST - (251)479-4518
MOBILE, AL 36606

City of Daphne
Department of Community Development
P.O. Drawer 400
Daphne, Alabama 36526

Attn: Mrs. Adrienne Jones, Director

Re: Zoning Usage

Dear Sirs & Ladies:

Matt White of MPWS, L.L.C. would like to request an administrative presentation opportunity at the September 23rd Planning Commission meeting. MPWS, L.L.C. would like to ask the planning commission to consider allowing a bowling alley use under B-1 zoning. This presentation would accompany the Preliminary/Final plat of Lake Forest Plaza that has been submitted for the same meeting.

Thank you for your consideration on this matter. If you have any questions or comments, please feel free to call.

Yours truly,

RESTER & COLEMAN ENGINEERS, INC.



D. Joel Coleman

jc

ARTICLE XXXV TABLE OF PERMITTED USES AND CONDITIONS	USE DISTRICT								
	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	CI
Accessory buildings and uses, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this Ordinance are met	R	R	R	R	R	R	R	R	R
Agriculture and related farming operations, including horticulture, plant nurseries market gardening, field crops, orchards, and home gardens	R	R	R	R	R	R	R	R	
Air Conditioning sales and service						R	R		R
Ambulance/EMS service						R	R	P	R
Amusement and recreation services: must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area:									
Amusement Park							R		
Amusement arcade, kiddie land							R		
Archery range							R		
Baseball batting range							R		
Billiard or pool hall							R		
Bowling alley						P	R		
Fairgrounds, circus or carnival							R		R
Family Entertainment Center						P			
Golf Course	P	P	P	P	P	P	P		P
Golf Course, miniature						P	R		
Golf, driving range	P	P	P	P	P	P	R		
Racquetball or tennis courts, indoor	P	P	P	P	P	P	P		P
Skating rink						P	R		
Tennis Courts, outdoor; need not be enclosed within a structure	P	P	P	P	P	P	P		P
Theater, indoor						P	R		

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: An Amendment to Article XXXV, the Table
of Permitted Uses of the Daphne Land Use
Ordinance
Date: September 28, 2010

MEMORANDUM

At the Thursday, September 23, 2010 regular meeting of the City of Daphne Planning Commission, six members were present and the motion carried unanimously to set forth a favorable recommendation to amend Article XXXV, the Table of Permitted Uses to include a Family Entertainment Center as a use allowed upon Planning Commission approval in a B-1, Local Business, zoning district.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate agenda to set the public hearing for action by the City Council on Monday, November 1, 2010.

Thank you,
ADJ/jd

Attachment

1. Copy of Table of Permitted Uses

cc: file

Jan Dickson

From: "Adrienne Jones" <ajonesdpln@bellsouth.net>
To: "Jan Dickson" <jandplcr@bellsouth.net>
Sent: Thursday, September 23, 2010 1:33 PM
Subject: FW: Eastern Shore Family Entertainment Center

From: Gulf Bowl [mailto:gulfbowl@gulftel.com]
Sent: Thursday, September 23, 2010 1:22 PM
To: ajonesdpln@bellsouth.net
Subject: Eastern Shore Family Entertainment Center

Adrienne,

I have forwarded several letters to you from residences and coaches who have sent them to me in support of our Family Entertainment Center for the Eastern Shore.

Just a few concerns going into this meeting that we wanted you and the planning commission to know. We have already been approved for this loan by USDA and Vision's Bank for this center in Daphne, AL. One of our major concerns is that our funding with USDA will expire December 31, 2010 and we will have to start all over again. Not sure we want to go down that road again. The paperwork and the funding process was very long and detailed.

We also were under the impression that when we signed the contract with White-Spinner it was already zoned B2. That played a big factor in the selection of this property, so you can imagine the deep sinking feeling we have knowing that our time is running out on this USDA loan guarantee and the property being zoned B1 with no bowling centers allowed.

The other concern is the stigma of a "bowling alley" which is not what we are building. That term was used in the 70's. We are building a Family Entertainment Center that will be "no smoking" and family oriented. It will have 24 Brunswick lanes, arcade, laser tag, family restaurant, snack bar, adult pool table room and party rooms.

It was brought up several times at the site preview meeting about the other property and why we did not go there. I am sure most of the commission knows that USDA & Vision's Bank would not allow us to go thru with that purchase of the property at the Renaissance Center due to the bonds. We are ready to break ground as soon as we can.

It is really crucial that we get this project off the ground as the funding was a nightmare and will of course expire soon.

Respectfully
The Cole Family
251/747-0298 cell

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Accessory buildings and uses, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this Ordinance are met	R	R	R	R	R	R	R	R	R
Agriculture and related farming operations, including horticulture, plant nurseries market gardening, field crops, orchards, and home gardens	R	R	R	R	R	R	R	R	
Air Conditioning sales and service						R	R		R
Ambulance/EMS service						R	R	P	R
Amusement and recreation services: must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area:									
Amusement Park							R		
Amusement arcade, kiddie land							R		
Archery range							R		
Baseball batting range							R		
Billiard or pool hall							R		
Bowling alley						P	R		
Fairgrounds, circus or carnival							R		R
Family Entertainment Center						P			
Golf Course	P	P	P	P	P	P	P		P
Golf Course, miniature						P	R		
Golf, driving range	P	P	P	P	P	P	R		
Racquetball or tennis courts, indoor	P	P	P	P	P	P	P		P
Skating rink						P	R		
Tennis Courts, outdoor; need not be enclosed within a structure	P	P	P	P	P	P	P		P
Theater, indoor						P	R		

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-____**

**Ordinance to Amend the City of Daphne
Land Use and Development Ordinance's
Table of Permitted Uses and Conditions**

WHEREAS, the Planning Commission of the City of Daphne, Alabama at its regular meeting held on September 23, 2010, considered certain proposed amendments to Article XXXV titled "Table of Permitted Uses and Conditions", of the City of Daphne Land Use and Development Ordinance No. 2002-22, and any amendments to the same; and,

WHEREAS, after consideration the Planning Commission sent a favorable recommendation to the City Council of the City of Daphne for the approval of amendment to the Table of Permitted Uses and Conditions contained within said Article XXXV of the City of Daphne Land Use and Development Ordinance to amend the Use District for a Family Entertainment Center; and,

WHEREAS, after consideration of amendment to said Table of Permitted Uses and Conditions contained in Article XXXV of said Ordinance the Planning Commission sent an unfavorable recommendation to the City Council of the City of Daphne for amendment to the Use District for Bowling Alley; and

WHEREAS, due notice of said proposed amendments has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on November 15, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and review and consideration of the recommendations, both favorable and unfavorable, of the Planning Commission, deemed that said amendments to the City of Daphne Land Use Ordinance, Article XXXV titled "Table of Permitted Uses and Conditions", is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows:

SECTION I. AMENDMENT

The Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance shall be amended

(a) to permit “Family Entertainment Center” as a defined Use allowed by Planning Commission approval in Use District B-1, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

(b) to permit a “Bowling Alley” as a defined Use allowed upon Planning Commission approval in Use District B-1 and by right in Use District B-2, the below shall be and is hereby added to the Table of Permitted Uses and Conditions contained in Article XXXV of the City of Daphne Land Use and Development Ordinance, Ordinance 2002-22 and its amendments;

ARTICLE XXXV	USE DISTRICT								
TABLE OF PERMITTED USES AND CONDITIONS	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	C/I
Bowling alley						P	R		
Family Entertainment Center						P			

All other sections, uses, conditions and/or contents of the Table of Permitted Uses and Conditions shall remain the same and shall be unchanged by this Ordinance; this Ordinance is only to amend the “Family Entertainment Center” and “Bowling Alley” designations.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION IV: EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and after publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, _____ THIS day of _____, 2010.

THE CITY OF DAPHNE,
AN ALABAMA MUNICIPAL CORPORATION

AUGUST A. PALUMBO,
COUNCIL PRESIDENT

FRED SMALL,
MAYOR

ATTEST:

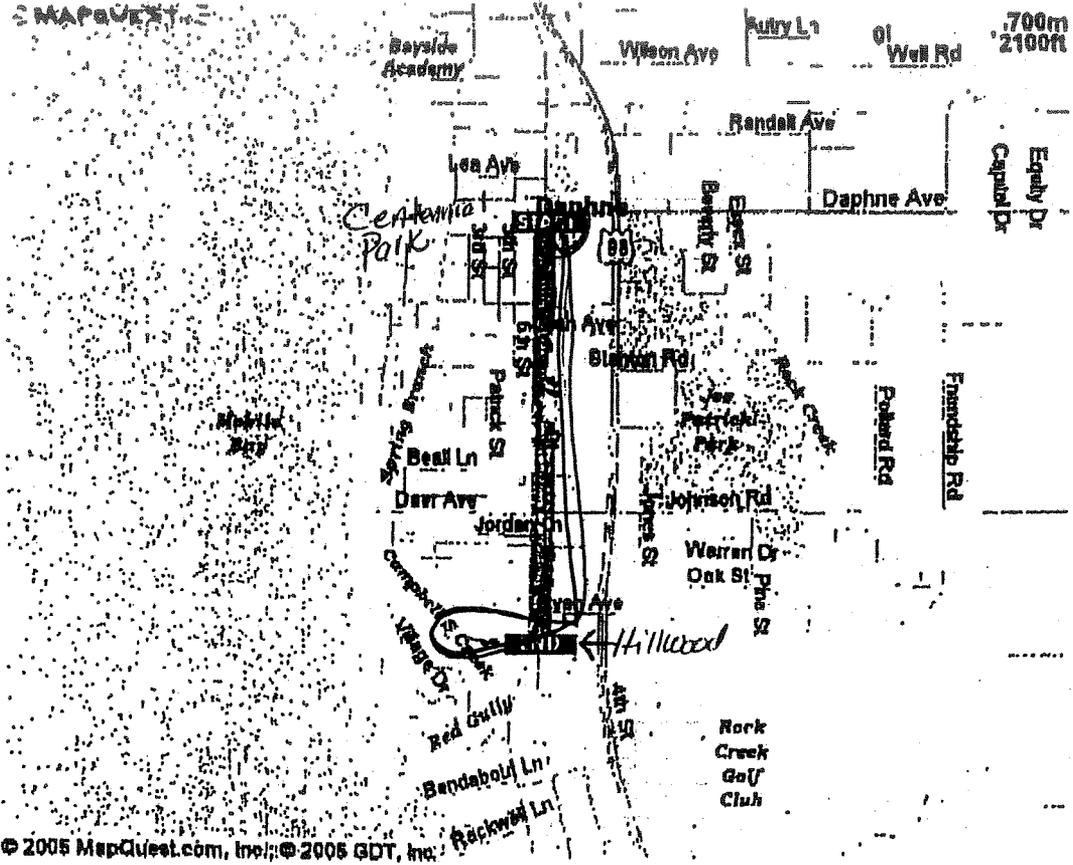
DAVID L. COHEN,
CITY CLERK, MMC

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>Animal Rescue</i>
CONTACT PERSON:	<i>James Pennington</i>
ADDRESS:	<i>35035 Ogden Road Stapleton, AL</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS): CELL NUMBER:	<i>367-4599</i>
TYPE OF PARADE:	<i>10th Annual 5K & 1 Mile Pet Trot</i>
DATE OF PARADE:	<i>December 18, 2010</i>
ROUTE TO BE TRAVELED:	<i>See Attached Map</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>200-300</i>
START TIME:	<i>5K - 8:00 A.M. / Pet Trot - 9:00 A.M.</i>
STOP TIME:	<i>10:30 A.M.</i>
ASSEMBLY AREA/STREET:	<i>Centennial Park</i>
ASSEMBLY TIME:	<i>7:00 A.M.</i>
SPECIAL INSTRUCTIONS:	
DATE APPLIED:	<i>October 11, 2010</i>
APPROVAL	
POLICE: Chief David Carpenter:	
FIRE: Chief James White	
PUBLIC WORKS: Richard Johnson	
CITY COUNCIL APPROVAL:	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	<i>October 11, 2010</i>
NOTIFICATION:	



FRANCHISE AGREEMENT

This Franchise Agreement (“Franchise”) is between the City of Daphne, Alabama hereinafter referred to as “the Franchising Authority” and Mediacom Southeast LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware, hereinafter referred to as “the Grantee.”

The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. “Basic Cable Service” is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.
- B. “Cable Act” means Title VI of the Cable Act of 1934, as amended.
- C. “Cable Services” shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. “Cable System” shall mean the Grantee’s facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.
- E. “FCC” means Federal Communications Commission, or successor governmental entity thereto.
- F. “Franchising Authority” means the City of Daphne, Alabama.

- G. “Grantee” means Mediacom Southeast LLC, or the lawful successor, transferee, or assignee thereof.
- H. “Gross Revenue” shall mean all cash compensation or revenues of any kind or nature received directly or indirectly by the franchisee, its subsidiaries or parent which are cable operators, arising from, attributable to, or in any way derived from the provision of cable services by the franchisee within the City, as long as all such gross revenues are in accordance with Generally Accepted Accounting Principals, provided, however, that such phrase shall not include: (1) any tax, fee, or assessment of general applicability; (2) unrecovered bad debt; and (3) any PEG amounts recovered from Subscribers. Gross Revenues includes, but is not limited to, monthly fees charged to subscribers for basic service; monthly fees charged to subscribers for any optional, premium or per-channel or per-program service; monthly fees charged to subscribers for any tier of Cable Services other than basic service; installation, disconnection, reconnection, late fees and change of service fees; leased channel fees, converter fees, rentals or sales; studio rental; advertising revenues; and revenues derived by the Grantee from home shopping channel sales to subscribers. Gross Revenues shall not include revenues received from the provision of Internet Service over the Cable System unless and until such time as the FCC rules determine that such service shall be designated a Cable Service and included in Gross Revenues for the purpose of calculating franchise fees. Advertising and home shopping revenues shall be allocated on a pro-rata basis based on the proportion of total subscribers on Grantee’s cable system represented by subscribers residing within the franchise area, provided they cannot be calculated on a per-franchise basis. Gross Revenues shall be the basis for computing the franchise fee. Gross Revenues shall include franchise fees collected from subscribers.

On or before April 30th of each year of this Agreement, Grantee shall provide Franchising Authority with a detailed summary of Gross Revenues, by item and type, subject to inclusion in the calculation of franchise fees received during the preceding year, certified by an officer of the Grantee. The Franchise Fee shall be payable in accordance with the Franchise Agreement.

- I. “Person” means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- J. “Public Way” shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the

Service Area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System.

- K. “Service Area” means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.
- L. “Standard Installation” is defined as 125 feet from the nearest tap to the Subscriber’s terminal.
- M. “Subscriber” means a Person who lawfully receives Cable Service of the Cable System with the Grantee’s express permission.

SECTION 2 **Grant of Franchise**

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System for the transmission and distribution of Cable Services, data services, information and other communications services or for any other lawful purposes.

2.2 Other Ordinances. In addition to mandatory compliance with specific ordinances enumerated in this Franchise, the Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance not specifically enumerated, and this Franchise, the Franchise shall control.

2.3 Other Authorizations. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the Service Area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall not be on terms and conditions more favorable or less burdensome, in the aggregate, to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this Franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that

the proposed increased obligations in the renewal, are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

SECTION 3 **Standards of Service**

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways. The Grantee will maintain compliance with all provisions of applicable City of Daphne ordinances concerning its Public Ways at all times.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public in compliance with all provisions of applicable City of Daphne ordinances concerning its Public Ways.

3.3 Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements which are not used to compete with the Grantee's services, or other mandate provided by applicable law or court of competent jurisdiction. The Grantee shall be responsible for removal of its property if the same is not sold or transferred within 180 days of termination of its services within the City of Daphne. Should removal of its property be required under this section, the Grantee shall replace and restore any disturbed Public Way in compliance with all provisions of applicable City of Daphne ordinances concerning its Public Ways.

3.4 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

3.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System in

compliance with all provisions of applicable City of Daphne ordinances concerning its Public Ways.

3.6 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code.

3.7 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.8 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision.

3.9 Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residences in the Service Area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for Cable Service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least five (5) residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.10 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals five (5). Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

- 3.11 Cable Service to Public Buildings.** The Grantee, upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable Service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its Cable System. The Cable Service provided shall not be used for commercial purposes. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's Cable System or any loss or damage to Grantee's Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation.
- 3.12 Reimbursement of Costs.** If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed.
- 3.13 Service to Annexed Areas.** Grantee shall offer Cable Service to any area annexed by the Franchise Authority after the Effective Date of this Franchise, within one (1) year after the effective date of such annexation, except that Cable Service shall not be required if similar existing Cable Service is in place or if the density of homes is less than that required in Section 3.9.

SECTION 4 **Regulation by the Franchising Authority**

4.1 Franchise Fee.

4.1.1 The Grantee shall pay to the Franchising Authority a franchise fee of five percent (5%) of annual Gross Revenues (as defined in subsection 1.1 of this Franchise). In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be forwarded to the City quarterly and shall be due forty-five (45) days after the end of each quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

4.1.2 Accord and Satisfaction. No acceptance of any payment by the Franchising Authority shall be construed as a release or as an accord and satisfaction of any claim the Franchising Authority may have for further or additional sums payable as a franchise fee under this Franchise or for the performance of any other obligation of the Grantee.

4.1.3 **Limitation on Recovery.** In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from such due date, at the annual rate of one percent over the prime interest rate. The period of limitation for recovery of any franchise fee payable hereunder shall be in accordance with the appropriate State or Federal laws. Any additional amount due Franchising Authority shall be paid within thirty (30) days of Franchising Authority's submitting an invoice for such sum, and if such sum shall exceed three percent (3%) of the total Franchise Fee which the audit determines should have been paid for any previous calendar years, Grantee shall pay Franchising Authority's cost of auditing those calendar years as well. Additionally, Grantee may audit the accuracy of its payment of Franchise Fees. Any amounts overpaid by the Grantee shall be deducted from future franchise fee payments.

4.1.4 **Limitation on Franchise Fee Actions.** The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be four (4) years from the date on which payment by the Grantee is due to the Franchising Authority.

4.2 Rates and Charges. The Franchising Authority may regulate rates for the provision of Basic Cable Service and equipment as expressly permitted by federal law.

4.3 Renewal of Franchise.

A. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the renewal provisions of federal law.

B. In addition to the procedures set forth in the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the Franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this subsection 4.3, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of federal law the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

D. The Grantee and the Franchising Authority consider the terms set forth in this subsection 4.3 to be consistent with the express renewal provisions of the Cable Act.

4.4 Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either

lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System, which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

4.5 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

4.6 Customer Service Standards. Grantee shall be bound by the FCC's Customer Service Standards, as they may be amended from time to time.

SECTION 5 **Books and Records**

Grantee shall make available to a duly authorized representative of the Franchising Authority, upon written request, its books and records to examine, audit, review and/or obtain copies of the papers, books, accounts, documents, maps, plans and other records of Grantee pertaining to compliance with its franchise. Grantee shall provide electronic copies of its books and records if available, and paper copies if electronic copies are not available. Grantee shall fully cooperate in making available its records and otherwise assisting in these activities. Grantee may require the Franchising Authority, or any of its employees, agents or representatives who will have access to such information to sign a confidentiality agreement prior to the release of any of this information. The Franchising Authority shall, in good faith, make every effort to accommodate Grantee by viewing on Grantee's premises, such data or documents that Grantee identifies as being of a highly competitive or of a confidential or proprietary nature, provided however, Grantee shall provide Franchising Authority at Franchising Authority's place of business or other designated location, with such financial documents as are reasonably necessary for the

Franchising Authority to conduct an audit to determine the accuracy of past franchise fee payments.

Inspection of Records. Grantee shall permit any duly authorized representative of the Franchising Authority, upon receipt of advance written notice to examine during normal business hours and on a non-disruptive basis any and all records as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

The Franchising Authority agrees to treat as confidential any books; records or maps that constitute proprietary or confidential information to the extent Grantee make the Franchising Authority aware of such confidentiality. If the Franchising Authority believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Franchising Authority agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

SECTION 6
Insurance and Indemnification and Bond

6.1 Insurance Requirements The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

The Franchising Authority shall be added as an additional insured to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

The Grantee shall furnish the Franchising Authority with current certificates of insurance evidencing such coverage.

- 6.2 Indemnification.** The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Service Area provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within thirty (30) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.
- 6.3 Bond.** General Requirement for Bond. In the event of an upgrade to the system, Grantee shall furnish to the Franchising Authority a Construction bond, which shall comply with the terms and provisions of any ordinance of general applicability this Agreement, which shall be in the minimum amount of \$25,000, while the upgrade is in progress. Upon completion of the upgrade in the franchised area, Grantee shall furnish to the Franchising Authority a Franchise performance bond, which shall comply with the terms and provisions of this Agreement, which shall be in the minimum amount of \$10,000. Notwithstanding the foregoing, Grantee shall maintain a bond in the amount of \$10,000 throughout the term of this agreement.

SECTION 7 **Enforcement and Termination of Franchise**

- 7.1 Notice of Violation.** In the event that the Franchising Authority believes that the Grantee has not complied with the any material term of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of such alleged noncompliance.
- 7.2 The Grantee's Right to Cure or Respond.** The Grantee shall have thirty (30) days from receipt of the notice described in subsection 7.1: (A) to respond to the Franchising Authority, contesting the assertion of such noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.
- 7.3 Public Hearing.** In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date

projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in material default of any provision of the Franchise, the Franchising Authority may:

- A. Commence an action at law for monetary damages or seek other equitable relief; or
- B. Seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Franchising Authority shall determine whether or not the Franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to a court of competent jurisdiction, which shall have the power to review the decision of the Franchising Authority *de novo*. The Grantee or the Franchising Authority shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action, which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control, including, but not limited to Acts of God.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8

Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise shall be mutually agreed to in writing by the parties.

8. Access to the System. Grantee shall provide one (1), single channel on the Cable System for joint use by the City for non-commercial, video programming for educational and government access programming known as the EG channel. The Grantee may utilize the channel's capacity for other purposes to the extent that such capacity is not utilized for educational or governmental purposes. Grantee shall maintain a return path and certain equipment necessary for City to transmit EG channel programming from a single location to be mutually determined and agreed to in written form by Grantee and the City, provided however that such location shall be passed by Grantee's active cable and fiber facilities within the City, as such facilities exist as of the effective date of the current Franchise Agreement for the City. Said equipment to be obtained by Grantee shall be limited to a modem and shall include an IP address for the City. All other transmit and receive equipment including but not limited to computer equipment, cameras, editing, playback equipment or any other equipment the City may need in order to create programming on the EG channel shall be supplied by City. Grantee will provide technical assistance to City to help it establish the EG channel. Grantee shall provide the EG channel upon six (6) month written notification and request by the Franchising Authority and no earlier than within ninety (90) days after the effective date of this

Franchise Agreement for the City and after the prior mutual determination and written agreement of the Grantee and the City as to the EG transmit location as stated above.

8.4 Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws.

8.5 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, c) within five (5) business days after having been posted in the regular mail or d) or the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

Mayor
City of Daphne
P.O. Box 400
Daphne, AL 36526

The notices or responses to the Grantee shall be addressed as follows:

Bruce Gluckman, Vice President
Mediacom Communications Corporation
100 Crystal Run Road
Middletown, NY 10941

With a copy to:

David Servies, Vice President
Mediacom
1613 Nantahala Beach Road
Gulf Breeze, FL 32563

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.5 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.6 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.7 Term and Effective Date. The Effective Date of this Franchise is the date of final adoption by the Franchising Authority as set forth below subject to Grantee's acceptance by countersigning where indicated below. This Franchise shall be for a term of fifteen (15) years from such Effective Date and shall expire on _____.

Considered and approved this _____ day of _____, 2010.

Daphne, AL: _____

Signature: _____

Printed Name: _____

Title: _____

Mediacom Southeast LLC

Signature: _____

Printed Name: _____

Title: _____

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

**CITY COUNCIL MEETING
RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS**

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

**RESOLUTION 2010-95
2010-BB-ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER
RECLAMATION FACILITY
1ARRA EECBG 07**

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the CITY OF DAPHNE is the recipient of American Recovery and Reinvestment Act of 2009 (ARRA) funding for its Energy and Efficiency Conservation Block Grant (EECBG) Number 1ARRA EECBG 07 from the State of Alabama for improvements to the Daphne Water Reclamation Facility in the amount of \$250,000; and

WHEREAS, the City has complied fully with the procurement requirements as set forth in O.M.B. Circular A-102 Attachment O, and the Common Rule as adopted by the State of Alabama.

WHEREAS, the City of Daphne did receive and review bids for the ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER RECLAMATION FACILITY and has determined that the bid as presented is reasonable; and

WHEREAS, the engineer, Volkert & Associates, Inc. and the Utility Board recommends the bid for ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER RECLAMATION FACILITY be awarded to Ballcon, Inc. in the amount of \$595,000; and

WHEREAS, the Utility Board is responsible for all cost associated with the project (including administrative cost) above the grant amount of \$250,000.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid from Ballcon, Inc. in the amount of \$595,000 as specified in BID SPECIFICATION NO. 2010-BB-ENERGY EFFICIENT BLOWER RETROFIT AT DAPHNE UTILITIES WATER RECLAMATION FACILITY.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

**RESOLUTION 2010-96
2010-B-WHISPERING PINES ROAD – ALTERNATE #1**

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that WHISPERING PINES ROAD project will exceed \$50,000; and

WHEREAS, the City of Daphne did receive and review bids for the WHISPERING PINES ROAD and has determined that the bid as presented is reasonable; and

WHEREAS, Council awarded Alternates #2 & #3 of the bid for WHISPERING PINES ROAD to M.C. Williams Contracting Company, Inc and now staff recommends that Alternate #1 also be awarded to M.C. Williams Contracting Company in order to take advantage of staging cost efficiencies.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid from M.C. Williams Contracting Company, Inc. in the amount of \$332,502 for Alternate #1, as specified in BID SPECIFICATION NO. 2010-B-WHISPERING PINES ROAD (engineering cost is \$31,000, total project cost is \$363,502).

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION 2010 - 97

A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND AUTHORIZING THE MAYOR TO DISPOSE OF SUCH PROPERTY

WHEREAS, the Department Heads of the City of Daphne have determined that the items listed below are no longer required for public or municipal purposes; and

WHEREAS, the items listed below are recommended for disposal.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that

- 1- The property listed below is hereby declared to be surplus property, and

DEPT	TAG/VEH#	DESCRIPTION	VIN # / SERIAL #
Police	202	2002 FORD CROWN VIC	2FAFP71W82X155763
Police	101	2001 FORD CROWN VIC	2FAFP71W31X129733

- 2- The Mayor is authorized to advertise and accept bids through Govdeals.com as contracted for the sale of such personal property, and

- 3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE NO. 2010-60

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

Higbee Property

(Located on Northwest of the intersection of County Road 13 and Whispering Pines Road)

**BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS
FOLLOWS:**

WHEREAS, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

WHEREAS, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

WHEREAS, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on August 26, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-1, Local Business and B-3, Professional Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on October 18, 2010 concerning the petition for annexation; and,

WHEREAS, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DAPHNE, ALABAMA**, as follows:

SECTION 1: CONSENT TO ANNEXATION. The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

SECTION 2: THE PROPERTY. That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

SECTION 3: MAP OF PROPERTY. The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

SECTION 4: PUBLICATION. This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

SECTION 5: PROBATE COURT. A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

“Exhibit A”

LEGAL DESCRIPTION:

(TO BE KNOWN AS LOT B-1- B-1, LOCAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 958.54 FEET; THENCE RUN SOUTH 44 DEGREES 52 MINUTES 16 SECONDS WEST, A DISTANCE OF 141.12 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 382.47 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 176.51 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 252.46 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 880.00 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING. CONTAINING 6.5 ACRES, MORE OR LESS.

(TO BE KNOWN AS LOT B-3 - B-3, PROFESSIONAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; SAID POINT BEING THE POINT OF BEGINNING; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 230.00 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 880.00 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 252.46 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 176.51 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 190.04 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 43 SECONDS WEST, A DISTANCE OF 1295.54 FEET; THENCE RUN SOUTH 89 DEGREES 58 MINUTES 38 SECONDS EAST, A DISTANCE OF 672.41 FEET TO THE POINT OF BEGINNING. CONTAINING 13.38 ACRES, MORE OR LESS.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA** on this _____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen
City Clerk, MMC

**RICHARD S. HIGBEE
ANNEXATION REVIEW
NORTHWEST OF THE INTERSECTION OF
WHISPERING PINES ROAD AND COUNTY ROAD 13
EXHIBIT "A"**

(RESUBDIVISION OF LOT 1, HIGBEE SUBDIVISION)

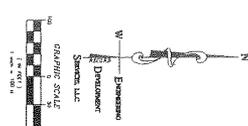
LEGAL DESCRIPTION:

(TO BE KNOWN AS LOT B-1- B-1, LOCAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 958.54 FEET; THENCE RUN SOUTH 44 DEGREES 52 MINUTES 16 SECONDS WEST, A DISTANCE OF 141.12 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 382.47 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 176.51 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 252.46 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 880.00 FEET; THENCE RUN NORTH 89 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING. CONTAINING 6.5 ACRES, MORE OR LESS.

(TO BE KNOWN AS LOT B-3 - B-3, PROFESSIONAL BUSINESS, ZONING)

COMMENCE AT THE NORTHEAST CORNER OF LOT 1, HIGBEE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, SLIDE 2191-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; SAID POINT BEING THE POINT OF BEGINNING; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 236.64 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 230.00 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 880.00 FEET; THENCE RUN SOUTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 252.46 FEET; THENCE RUN SOUTH 00 DEGREES 14 MINUTES 58 SECONDS EAST, A DISTANCE OF 176.51 FEET; THENCE RUN SOUTH 89 DEGREES 59 MINUTES 30 SECONDS WEST, A DISTANCE OF 190.04 FEET; THENCE RUN NORTH 00 DEGREES 14 MINUTES 43 SECONDS WEST, A DISTANCE OF 1295.54 FEET; THENCE RUN SOUTH 89 DEGREES 58 MINUTES 38 SECONDS EAST, A DISTANCE OF 672.41 FEET TO THE POINT OF BEGINNING. CONTAINING 13.38 ACRES, MORE OR LESS.



LEGEND

○ = BUILDING SETBACK LINE

○ = CAPPED DRIVE PER ROAD

○ = ASSIGNED

○ = RECORD

CERTIFICATE OF APPROVAL OF UTILITIES

I, BEN HERON, CIVIL ENGINEER, LICENSE NO. 11115, HEREBY CERTIFY THAT THE UTILITIES SHOWN ON THE CITY OF BALDWIN COUNTY, ALABAMA, MAP OF THE PROPOSED LOT 1, HAS BEEN APPROVED TO COMPLY WITH THE MINIMUM REQUIREMENTS OF THE BALDWIN COUNTY ZONING ORDINANCE.

DATED THIS _____ DAY OF _____, 2011.

BEN HERON, CIVIL ENGINEER

CERTIFICATE OF APPROVAL BY PUBLIC UTILITIES

THE UNDERSIGNED, AS AUTHORIZED BY PUBLIC UTILITIES, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

AUTHORIZED REPRESENTATIVE

CERTIFICATE OF APPROVAL BY TELEPHONE (A161)

THE UNDERSIGNED, AS AUTHORIZED BY A161, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

AUTHORIZED REPRESENTATIVE

CERTIFICATION OF OWNERSHIP AND DEDICATION

THIS IS TO CERTIFY THAT I, SAUL N. HIGBEE, CIVIL ENGINEER, LICENSE NO. 11115, HAVE BEEN THE OWNER OF THE PROPERTY SHOWN ON THE CITY OF BALDWIN COUNTY, ALABAMA, MAP OF THE PROPOSED LOT 1, SINCE THE DATE OF THE RECORDING OF SAID MAP. I HEREBY CERTIFY THAT I HAVE FULL TITLE TO SAID PROPERTY AND THAT I HAVE THE RIGHT TO CONVEY SAID PROPERTY TO THE CITY OF BALDWIN COUNTY, ALABAMA, FOR THE PURPOSES OF THE PROPOSED LOT 1. I HEREBY DEDICATE SAID PROPERTY TO THE CITY OF BALDWIN COUNTY, ALABAMA, FOR THE PURPOSES OF THE PROPOSED LOT 1. I HEREBY DEDICATE SAID PROPERTY TO THE CITY OF BALDWIN COUNTY, ALABAMA, FOR THE PURPOSES OF THE PROPOSED LOT 1. I HEREBY DEDICATE SAID PROPERTY TO THE CITY OF BALDWIN COUNTY, ALABAMA, FOR THE PURPOSES OF THE PROPOSED LOT 1.

DATED THIS _____ DAY OF _____, 2011.

SAUL N. HIGBEE, CIVIL ENGINEER

CERTIFICATION BY NOTARY PUBLIC

I, _____, A NOTARY PUBLIC IN AND FOR THE COUNTY OF _____, STATE OF ALABAMA, DO HEREBY CERTIFY THAT SAUL N. HIGBEE, CIVIL ENGINEER, LICENSE NO. 11115, HAS PERSONALLY APPEARED BEFORE ME AND REQUESTED THAT I EXECUTE THIS CERTIFICATE OF OWNERSHIP AND DEDICATION. SAUL N. HIGBEE HAS BEEN IDENTIFIED TO ME AS THE PERSON WHOSE NAME IS SET FORTH IN SAID CERTIFICATE OF OWNERSHIP AND DEDICATION. SAUL N. HIGBEE HAS BEEN IDENTIFIED TO ME AS THE PERSON WHOSE NAME IS SET FORTH IN SAID CERTIFICATE OF OWNERSHIP AND DEDICATION. SAUL N. HIGBEE HAS BEEN IDENTIFIED TO ME AS THE PERSON WHOSE NAME IS SET FORTH IN SAID CERTIFICATE OF OWNERSHIP AND DEDICATION. SAUL N. HIGBEE HAS BEEN IDENTIFIED TO ME AS THE PERSON WHOSE NAME IS SET FORTH IN SAID CERTIFICATE OF OWNERSHIP AND DEDICATION.

DATED THIS _____ DAY OF _____, 2011.

NOTARY PUBLIC

CERTIFICATION OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY



CERTIFICATION OF APPROVAL FOR STREETS, DRAINAGE AND UTILITIES

I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. I HEREBY CERTIFY THAT THE SUBDIVISION MAP SHOWN HEREON HAS BEEN MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

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DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

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DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

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I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

CERTIFICATION OF APPROVAL FOR THE CITY

I, _____, DIRECTOR OF COMMUNITY DEVELOPMENT, HEREBY APPROVE THE MAP OF THE PROPOSED LOT 1, THE PROPERTY OF SAUL N. HIGBEE, CIVIL ENGINEER OF BALDWIN COUNTY, ALABAMA, LICENSE NO. 11115.

DATED THIS _____ DAY OF _____, 2011.

CITY OF BALDWIN COUNTY

DESIGN	O.E.D.	SCALE	T=100
DRAWN	O.E.D.	PROJ NO	100605
ENG	N/A	DWG NO	100605PRELIM
PROJ MGR	D.E.D.	SHEET	1 OF 1
SURVEYOR	D.E.D.		

**A RESUBDIVISION OF LOT 1
HIGBEE SUBDIVISION
FINAL PLAT**

AUGUST 8, 2011 - SHEET 1 OF 1 SHEETS

DEVELOPER/OWNER:
RICHARD S. HIGBEE
100605 PRELIM DRIVE
DAPHNE, AL 36620

WATER SERVICE, DAPHNE
SEWER SERVICE, DAPHNE
TELEPHONE SERVICE, A161

REQUIRED SETBACKS:
SETBACKS SHOWN HEREON REFLECT THE MINIMUM REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. THE SETBACKS SHOWN HEREON MAY VARY FROM THE MINIMUM REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. THE SETBACKS SHOWN HEREON MAY VARY FROM THE MINIMUM REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE. THE SETBACKS SHOWN HEREON MAY VARY FROM THE MINIMUM REQUIREMENTS OF THE CITY OF BALDWIN COUNTY, ALABAMA, ZONING ORDINANCE.

ENGINEERING DEVELOPMENT SERVICES, LLC
11115
DAPHNE, AL 36620

DATE: AUGUST 8, 2011

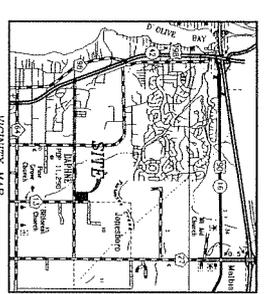
PROJECT: A RESUBDIVISION OF LOT 1, HIGBEE SUBDIVISION, BALDWIN COUNTY, ALABAMA.

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA



Engineering Development Services, LLC
11115
DAPHNE, AL 36620

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

NOTARY PUBLIC
SAUL N. HIGBEE
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LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

NOTARY PUBLIC
SAUL N. HIGBEE
CIVIL ENGINEER
LICENSE NO. 11115
BALDWIN COUNTY, ALABAMA

ORDINANCE NO. 2010 - 61

**Ordinance to Rezone Property Located Northeast of the intersection of Whispering Pines Road and Parker Lane (18.44 Acres)
A & B-10, L.L.C.**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3 High Density Single Family District, to R-4 High Density Single Family District, to said property is located, Northeast of the intersection of Whispering Pines Road and Parker Lane being more particularly described as follows:

Legal Description:

COMMENCE AT THE NORTHWEST CORNER OF LOT NUMBER 12 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING; THENCE RUN EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 614.76 FEET, AN ARC DISTANCE OF 45.51 FEET, (CHORD BEARS SOUTH 87 DEGREES 58 MINUTES 43 SECONDS EAST FOR 45.50 FEET); THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 79.53 FEET; THENCE RUN SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET, (CHORD BEARS SOUTH 40 DEGREES 51 MINUTES 27 SECONDS EAST FOR 35.35 FEET); THENCE RUN SOUTH 78 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.36 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 92.25 FEET; THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 152.00 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 43.15 FEET; THENCE RUN NORTH 01 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 73.81 FEET; THENCE RUN NORTH 00 DEGREES 03 MINUTES 54 SECONDS WEST, A DISTANCE OF 388.21 FEET; THENCE RUN NORTH 89 DEGREES 55 MINUTES 26 SECONDS WEST, A DISTANCE OF 1,319.93 FEET; THENCE RUN SOUTH 00 DEGREES 07 MINUTES 50 SECONDS WEST, A DISTANCE OF 365.76 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 100.29 FEET; THENCE RUN SOUTH 78 DEGREES 46 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.96 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 576.12 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, A DISTANCE OF 174.30 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, A DISTANCE OF 54.45' TO THE POINT OF BEGINNING. CONTAINING 12.44 ACRES, MORE OR LESS, AND LYING IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, the Planning Commission of the City of Daphne on August 26, 2010 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, October 18, 2010 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-3 High Density Single Family District, to a R-4 High Density Single Family District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS ____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

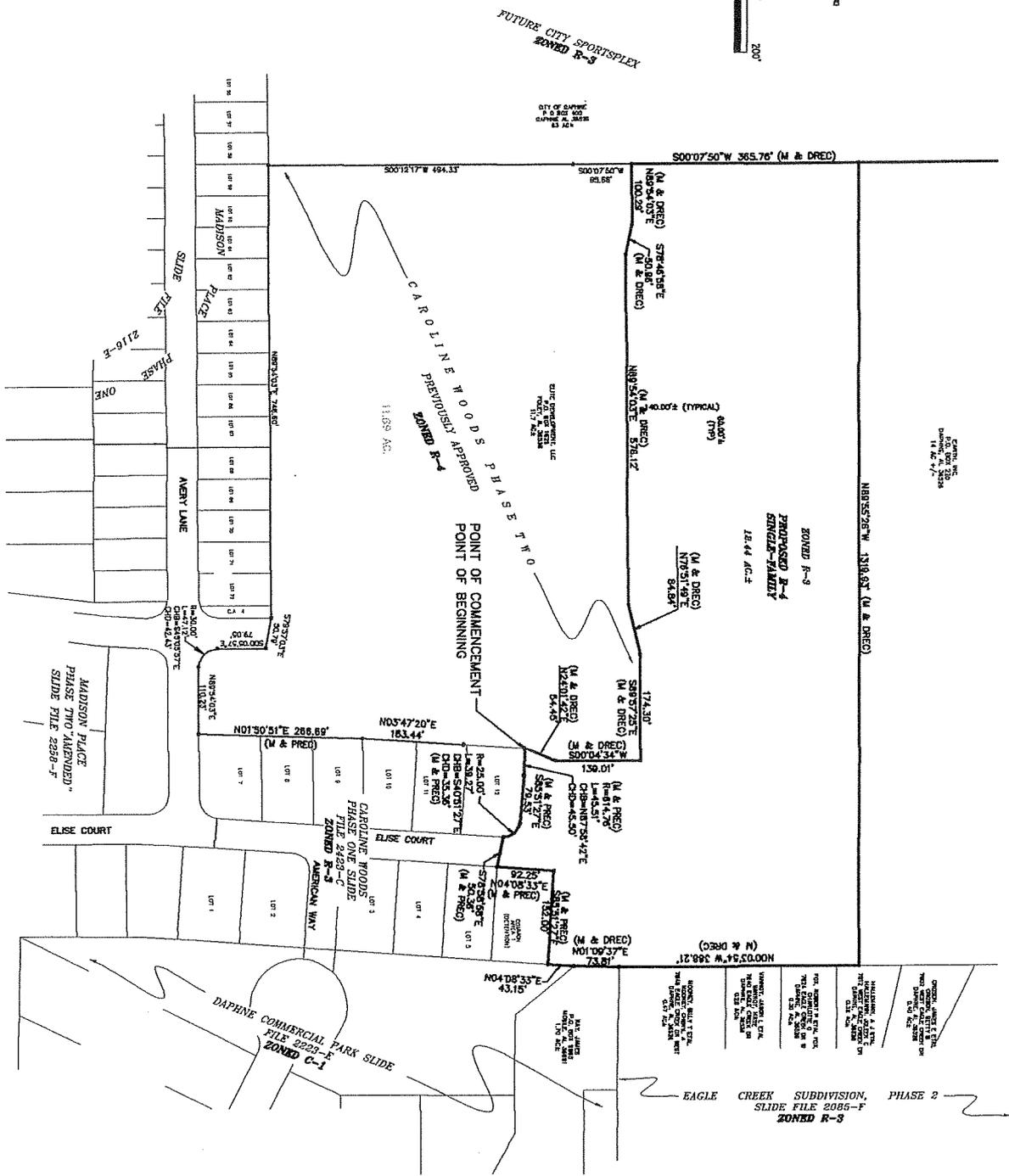
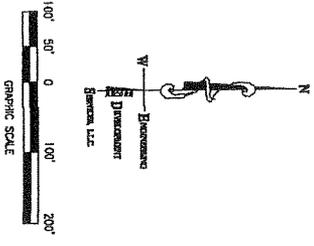
David L. Cohen
City Clerk, MMC

A & B-10, L.L.C
ZONING AMENDMENT REVIEW
NORTHEAST OF THE INTERSECTION OF
WHISPERING PINES ROAD AND PARKER LANE,
NORTH OF CAROLINE WOODS SUBDIVISION, PHASE TWO
EXHIBIT "A"

(CAROLINE WOODS SUBDIVISION, PHASE THREE)

LEGAL DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF LOT NUMBER 12 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING; THENCE RUN EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 614.76 FEET, AN ARC DISTANCE OF 45.51 FEET, (CHORD BEARS SOUTH 87 DEGREES 58 MINUTES 43 SECONDS EAST FOR 45.50 FEET); THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 79.53 FEET; THENCE RUN SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET, (CHORD BEARS SOUTH 40 DEGREES 51 MINUTES 27 SECONDS EAST FOR 35.35 FEET); THENCE RUN SOUTH 78 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.36 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 92.25 FEET; THENCE RUN SOUTH 85 DEGREES 51 MINUTES 27 SECONDS EAST, A DISTANCE OF 152.00 FEET; THENCE RUN NORTH 04 DEGREES 08 MINUTES 33 SECONDS EAST, A DISTANCE OF 43.15 FEET; THENCE RUN NORTH 01 DEGREES 09 MINUTES 37 SECONDS EAST, A DISTANCE OF 73.81 FEET; THENCE RUN NORTH 00 DEGREES 03 MINUTES 54 SECONDS WEST, A DISTANCE OF 388.21 FEET; THENCE RUN NORTH 89 DEGREES 55 MINUTES 26 SECONDS WEST, A DISTANCE OF 1,319.93 FEET; THENCE RUN SOUTH 00 DEGREES 07 MINUTES 50 SECONDS WEST, A DISTANCE OF 365.76 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 100.29 FEET; THENCE RUN SOUTH 78 DEGREES 46 MINUTES 58 SECONDS EAST, A DISTANCE OF 50.96 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, A DISTANCE OF 576.12 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, A DISTANCE OF 174.30 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, A DISTANCE OF 54.45' TO THE POINT OF BEGINNING. CONTAINING 12.44 ACRES, MORE OR LESS, AND LYING IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



**CAROLINE WOODS, PHASE THREE
EXHIBIT "B"**

ORDINANCE 2010-62

Whispering Pines Road: US 98 to Pollard Road – Alternate #1

WHEREAS, the Fiscal Year 2011 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2011 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2011 budget; and

WHEREAS, certain improvements for Whispering Pines Road were funded in Fiscal 2010 and are under construction; and

WHEREAS, it is more cost effective to complete an additional phase of the Whispering Pines project while construction activities are already staged.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that an appropriation in the amount of \$363,502 from the Capital Reserve Fund is hereby approved for Alt #1 of the Whispering Pines Road: US 98 to Pollard Road Project.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen,
City Clerk MMC

ORDINANCE 2010-63

Fiscal 2011 Road Improvements Engineering

WHEREAS, the Fiscal Year 2011 Budget is being considered by the City Council; and

WHEREAS, prior to the adoption of the Fiscal Year 2011 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2011 budget; and

WHEREAS, the City Council has authorized the letting of bids for certain 2011 road projects; and

WHEREAS, Engineering services are required for survey, design, and preparation of specifications for bidding as follows:

- | | |
|--|-------------------|
| 1. Bay View Drive from Highway 90 (1.42 miles) | - \$110,000 |
| 2. Ridgewood Drive(½ mile north and ½ mile south of Lawson) | - \$132,000 |
| 3. Whispering Pines (Pollard Road to US 98) | |
| If Deductive Alternate is returned to existing contractor – No Charge | |
| If New Bid Process is initiated | \$ 2,500 |
| 4. Intersection of US 98 and Whispering Pines | - \$ 15,000 |
| 5. Timber Creek Boulevard (Hwy 181 to Hwy 31)(estimated: pending County's involvement) | - \$ 40,000 |
| | <u>\$ 299,500</u> |

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that an appropriation of \$ 299,500 from the Capital Reserve Fund for the engineering services required for the preparation and letting of bids for certain 2011 road projects is hereby approved.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen,
City Clerk MMC

ORDINANCE 2010-64

Sehoy Sub Division-Claiborne Circle Drainage Project

WHEREAS, the Fiscal Year 2011 Budget is being considered; and

WHEREAS, prior to the adoption of the Fiscal Year 2011 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2011 budget; and

WHEREAS, certain drainage improvements, including the replacement of plastic pipe with metal pipe, are needed at Claiborne Circle in the Sehoy Sub Division.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that an appropriation of \$60,098 from the General Fund is hereby approved for drainage improvements at Claiborne Circle.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen,
City Clerk MMC

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2010-65**

**AN ORDINANCE TO RESTRICT USE OF WIRELESS COMMUNICATION
DEVICES WHILE DRIVING**

WHEREAS, the City Council of the City of Daphne, Alabama, is aware of growing public concern regarding the safety implications of the widespread use of wireless communication devices while operating motor vehicles; and,

WHEREAS, the City Council of the City of Daphne, Alabama, finds that restricting the use of wireless communication devices while operating motor vehicles would best serve public health, safety and welfare; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, as follows:

**SECTION 1: RESTRICTED USE OF WIRELESS COMMUNICATION DEVICES
WHILE DRIVING.**

(A) Definitions.

The following words, terms, and phrases when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as may be otherwise provided in this division, all words and phrases used in this division which are defined in Code of Ala. 1975 § 32-1-1.1 shall have the meanings ascribed to them in that section.

Wireless Communication Device shall include a cellular, analog, wireless or digital device, computer or telephone, capable of accessing the internet or sending, receiving or downloading any electronic or digital data, including, but are not limited to, videos, pictures, or communications, such as electronic mail, instant messages and text messages. Such device may include telecommunication capabilities. Covered devices include, but are not limited to, devices commonly known as Blackberries, iPhones, iPads, Kindles, laptops, netbooks and other similarly equipped wireless devices. Covered devices shall not include voice radios, mobile radios, land mobile radios, commercial mobile radios or two-way radios with capability to transmit and receive voice transmission utilizing a “push to talk” or “press to transmit” function.

(B) Restricted Use of Wireless Communication Devices While Driving.

(a) No person shall operate a vehicle upon any highway, roadway or street while using a wireless communication device to send, receive, download or view any electronic or digital content including music, video, picture or

communication including, but not limited to, electronic mail, instant messaging or text messaging.

(C) Exceptions.

Subsection (B) shall not apply only in the following instances:

(a) an emergency services professional using a wireless communication device while operating an authorized emergency vehicle in the due course of business; personal use of a wireless communication device shall remain subject to the provisions contained in Subsection (B);

(b) an individual using a wireless communication device to make or receive a telephone call;

(c) an individual using a wireless communication device to obtain emergency services including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity;

(d) an individual using a wireless communication device while the motor vehicle is parked on the shoulder of the highway, roadway or street, or the vehicle is stopped due to normal traffic being obstructed and the vehicle transmission is in neutral or park;

(e) Global Positioning System (GPS) or navigation units that are permanently affixed to vehicle.

(D) Stopping Vehicle Solely to verify Violations of Subsection (B) is prohibited

(a) no law enforcement officer shall stop a vehicle solely for the purpose of verifying a suspected violation of Subsection (B);

(b) the provisions of Subsection (B) shall not constitute probable cause for search of the vehicle involved.

(E) Penalty.

Any person who violates any provision of this division shall upon conviction be punished, in addition to such other punishment as may be provided by the court, by fines and penalties as follows:

(a) for a first conviction, by a fine of \$100.00 or by imprisonment of not more than 10 days;

(b) for a second conviction, by a fine of \$200.00 or by imprisonment for not more than 30 days;

(c) for a third or subsequent conviction, by a fine of \$500.00 or by imprisonment for not more than three months or by both such fine and imprisonment.

SECTION 2: NOTICE

That the City of Daphne shall erect a sign on every major thoroughfare entering the City to notify persons traveling to or through the City that the use of wireless communication devices, other than to make a phone call, while operating a motor vehicle is prohibited within the City. Such signs shall be erected no later than thirty (30) days after the adoption of this ordinance.

SECTION 3: SEVERABILITY

That the provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: EFFECTIVE DATE.

That this ordinance shall become effective sixty days (60) days from and after the date of its adoption.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the ____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC